

# EPA'S BROWNFIELDS PROGRAM: EMPOWERING CLEANUP AND ENCOURAGING ECONOMIC RE- DEVELOPMENT

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## HEARING BEFORE THE SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTEENTH CONGRESS SECOND SESSION

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APRIL 21, 2016

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**Serial No. 114-140**



Printed for the use of the Committee on Energy and Commerce  
*energycommerce.house.gov*

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U.S. GOVERNMENT PUBLISHING OFFICE  
20-755 PDF      WASHINGTON : 2016

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## **EPA'S BROWNFIELDS PROGRAM: EMPOWERING CLEANUP AND ENCOURAGING ECONOMIC REDEVELOPMENT**

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**THURSDAY, APRIL 21, 2016**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY,  
COMMITTEE ON ENERGY AND COMMERCE,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:00 a.m., in room 2123, Rayburn House Office Building, Hon. John Shimkus (chairman of the subcommittee) presiding.

Members present: Representatives Shimkus, Harper, McKinley, Johnson, Bucshon, Tonko, Schrader, Green, Capps, McNerney, and Pallone (ex officio).

Staff present: Will Batson, Legislative Clerk; Rebecca Card, Assistant Press Secretary; Dave McCarthy, Chief Counsel, Environment and the Economy; Tina Richards, Counsel, Environment and the Economy; Chris Sarley, Policy Coordinator, Environment and the Economy; Dan Schneider, Press Secretary; Dylan Vorbach, Deputy Press Secretary; Jacqueline Cohen, Democratic Senior Counsel; Timia Crisp, Democratic AAAS Fellow; Jean Fruci, Democratic Policy Advisor, Energy and Environment; Tiffany Guarascio, Democratic Deputy Staff Director and Chief Health Advisor; Rick Kessler, Democratic Senior Advisor and Staff Director, Energy and Environment; Alexander Ratner, Democratic Policy Analyst; Timothy Robinson, Democratic Chief Counsel; Andrew Souvall, Democratic Director of Communications, Outreach, and Member Services; and Tuley Wright, Democratic Policy Advisor, Energy and Environment.

### **OPENING STATEMENT OF HON. JOHN SHIMKUS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS**

Mr. SHIMKUS. I want to call the hearing to order and recognize myself for 5 minutes for an opening statement, although I am not going to take it. I am going to ask unanimous consent that all opening statements will be submitted for the record.

Brownfields is an important issue for me. I know it is important for the ranking member. I know it is important for my colleague from Oregon. I think it is something that we can do. We have just got to get these old sites reclaimed, back into use. I think the testimony today will highlight that this is something everybody wants to do and move expeditiously.

[The prepared statement of Mr. Shimkus follows:]

(1)

**PREPARED STATEMENT OF HON. JOHN SHIMKUS**

The term brownfields usually refers to abandoned or closed commercial or industrial properties that may be contaminated because of their prior use. These sites, however, often have significant redevelopment potential. The economic redevelopment of these sites means very good things for the local community—things like jobs, an improved tax base, and being able to rid communities of blighted properties and clean up entire neighborhoods. According to EPA, the Agency's Brownfields Program has grown into a proven, results-oriented program that has changed the way contaminated property is perceived, addressed, and managed. This is demonstrated by the numbers. As of March 1, 2016, EPA's Brownfields Program has assessed 23,932 sites and leveraged 108,924 jobs. The program has also leveraged almost \$21 billion for cleanup and redevelopment. We will hear today from Mr. Stanislaus more about these statistics and why EPA believes the program works and maybe find out from him whether there are things we could do to improve the program.

The EPA Brownfields Program is also an important tool used by States, local governments, and private stakeholders to clean up under-used or abandoned industrial and commercial properties and to return them to beneficial use. Cleaning up these sites and returning them to productive use is great for the economy because brownfields grants can be directly leveraged into jobs, into additional redevelopment funds, and into increased residential property values.

I have a number of brownfield sites in my district, ranging from former family gas stations and the local corner dry cleaners to a former plating company and a former hospital. Throughout my district sites are being redeveloped to create greenspace and to return areas to commercial use. My colleague, the ranking member Mr. Pallone, has said many times how important it is that we take a look at the Brownfields Program. I agree. We need to see what works—and there is a lot to like about the program—but we find that there are always areas we can improve upon.

On that note, we also welcome our second panel who will walk us through how public and private stakeholders can work together in pursuit of a common redevelopment goal and give us their perspectives on the Brownfields Program.

We welcome Mr. Anderson from the State of Virginia who is here on behalf of a good friend of the subcommittee, ASTSWMO. Mr. Anderson will fill us in on the State role in brownfields redevelopment.

Also joining us today is Mayor Bollwage, from Elizabeth, New Jersey. Mayor Bollwage has been very involved in his city's redevelopment. Mr. Henry is here with us to give his perspective as a consultant who does urban planning and redevelopment and as someone who used to run the Brownfields Program in a major U.S. city.

We'll hear from an environmental lawyer, Ms. Romig, who understands the legal ramifications and hurdles facing clients who may be interested in pursuing redevelopment. And last, but not least, we will hear from Ms. Eady, also a lawyer, who works for the Conservation Law Foundation.

Mr. SHIMKUS. With that, I am going to yield back my time and yield to the ranking member for 5 minutes.

**OPENING STATEMENT OF HON. PAUL TONKO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK**

Mr. TONKO. Thank you, Mr. Chairman. Good morning. Thank you for holding this important hearing on EPA's Brownfields Program. I know that this is an issue that Ranking Member Pallone and I are very passionate about. And I believe that based on previous experiences in State and local government, it is an issue that bears much relevance.

I am proud to represent part of the Erie Canal corridor in New York State, which includes my home town of Amsterdam. This was a gateway toward western expansion. Mill towns popped up along the Mohawk River helping to usher in our Nation's industrial revolution and create jobs.

Sadly, many of these manufacturers are gone, but the baggage from industrialization, including contaminated land, still remains.

While that is the story from my home county, I want to stress that brownfields are not unique to one region or type of community. They can be found in every congressional district, urban or rural.

The EPA found that approximately 104 million people live within 3 miles of a brownfield site that received EPA funding, including 35 percent of all children in the United States under the age of 5. Brownfields cleanup is critical for environmental revitalization and economic redevelopment efforts. And undeniably, EPA's program has been incredibly successful. EPA grant recipients use funding to inventory success and conduct cleanup at sites. The program administers two separate types of grants: direct financial assistance for the assessment, and clean up of properties and financial assistance to States to aid them in carrying out their own cleanup programs.

EPA will discuss some of the astonishing statistics on the success of the program. Since Congress passed a Small Business Liability Relief and Brownfields Revitalization Act in 2002. Over 44,000 acres of idle land have been made ready for productive use. Over 106,000 jobs and \$23.3 billion have been leveraged, cleaning up brownfields properties leads to residential property value increases of some 5 to 11.5 percent. And \$1 of the EPA's brownfields funding leverages between \$17 and \$18 in other public and private funding. EPA's research has shown that redeveloping a brownfield instead of a greenfield has significant environmental benefits in addition to limiting sprawl and cleaning up blighted properties who are dealing with the program that has produced tremendous results. Revitalizing a brownfield can help a distressed community's economic comeback, and people are beginning to recognize that brownfields represent opportunities. But despite these successes, the program can be improved. This authorization expired in 2006. There are reforms that can give grant recipients more flexibility. We can encourage more support, capacity building and technical assistance for both small and disadvantaged communities. We can make it easier for nonprofit stakeholders to get involved. We couldn't put more emphasis on regional planning to make this program even more effective.

We will hear about the need for more funding, but both competitive grants and grants to States is required. More and more qualified applications must be rejected each year because of insufficient funding. We will hear about the need to increase the cap on individual projects. Many remaining sites are increasingly complex and will require more funding to remediate properly.

Today's caps of \$200,000 for assessment and cleanup grants is just not enough in many cases. But despite these potential improvements, I want to stress that this program has been incredibly successful and that is according to representatives from all levels of Government from urban and rural communities and from non-profits and private sector developers. There is strong consensus on the steps that need to be taken to make this program work even better. And there is bipartisan support, I believe, for the program in Congress. This is a winning recipe to get a reauthorization done. I hope this is something we can continue to work on this year. For so many distressed communities and neighborhoods, a brownfield stands in the way of economic comeback. We can help provide even

more opportunities with just a few widely supported adjustments to this critical program. I look forward to hearing more about the EPA's Brownfields Program and its role in economic redevelopment, planned and sustainable land reuse and environmental justice.

With that, Mr. Chair, I yield back the balance of my time.

Mr. SHIMKUS. The gentleman yields back his time. The Chair looks to the majority side, seeing no one interested in giving an opening statement, I will turn to the ranking member of the full committee, Mr. Pallone, for 5 minutes.

**OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. PALLONE. Thank you, Mr. Chairman for calling this hearing. I would also like to thank the witnesses for being here, particularly Mayor Chris Bollwage from my home State of New Jersey, who I believe will be testifying on the second panel.

When we passed the original brownfields bill in the 107th Congress, I was the ranking member of the subcommittee and the lead Democrat on the legislation, which was one of the only pieces of environmental legislation that I can remember President George W. Bush ever signing into law.

We worked in a bipartisan manner then with my Republican chairman, the late Paul Gillmor of Ohio. And I would like to continue this bipartisan effort as we work to improve on the program, and assure the States and local communities have the resources they need to revitalize their communities. I hope that my colleagues on the committee will join me in working to improve this important program.

The Brownfields Program has been an incredibly important tool for protecting public health and spurring economic growth in New Jersey and throughout the country. Brownfields properties are a blight on the community. Though these sites do not warrant listing on the national priority list like Superfund sites, these contaminated properties can have negative environmental and economic impacts.

The success of this program can't be understated. Removing public health hazards by cleaning up contaminated sites is incredibly important for the surrounding communities. Since the program's inception, thousands of contaminated sites have been remediated, allowing communities to create new developments like housing and parks.

EPA has found that cleaning up underutilized or abandoned brownfields properties reduces health risks, decreases pollution, and reduces stormwater runoff. Aside from the environmental benefits, revitalizing these properties can result in crime reduction, job creation and boosts in the local economy.

However, as successful as the Brownfields Program has been, there is still so much important cleanup work to be done. I expect we will hear from today's witnesses about the staggering number of brownfields properties in need of remediation and the increased complexity of the remaining sites.

Many stakeholders have indicated a need for increased funding and flexibility to allow States and local communities to use their resources effectively to address the increased complexity of these cleanups. Through multipurpose grants, regional planning and increased caps for individual grants, communities can start to tackle this problem.

Communities also need assistance with capacity building. Through job training, technical assistance, and education and outreach, communities can leverage Federal and State assistance, engage with developers in the remediation process, and take ownership of their communities' revitalization. We should be equipping communities with the tools they need to ensure successful cleanups.

Despite the growing need for resources and broad support on both sides of the aisle, this successful program has never been reauthorized. While the program has continued to receive appropriations, unfortunately, funding levels have declined. Furthermore, the Federal tax incentive has lapsed. These are incredibly useful tools that encouraged developers to remediate sites by allowing them to deduct the cost of cleanups.

So we can't continue to expect the same success from a program that is underfunded and lacking the necessary tools to be effective. As we work to determine how we can strengthen the program, we should ensure that funding is part of the conversation, and we should also support cleanup efforts to ensure that these efforts are adequately funded.

So I appreciate today's opportunity to learn more about how we can increase the effectiveness of this program. As many of you know, I previously—I mentioned I introduced legislation to reauthorize appropriations and create the needed flexibility for the Brownfields Program. My legislation aimed to address some of the concerns that have been expressed by stakeholders, including increased capacity building, more flexibility in the use of grants and increased caps on individual grants. I would like to reintroduce an updated version of that bill soon, and I hope that we can work together to get bipartisan brownfields legislation signed into law this year.

I guess I can't help but mention, tomorrow is Earth Day, and so I think it is particularly great, both Chairman Shimkus and Mr. Tonko, that we are having the hearing today. I fully intend to talk about brownfields when I go around the district tomorrow and over the weekend at our various Earth Day events. Thank you.

[The prepared statement of Mr. Pallone follows:]

#### PREPARED STATEMENT OF HON. FRANK PALLONE, JR.

I want to thank the chairman for calling this hearing on EPA's Brownfields Program. I would also like to thank the witnesses for being here, particularly Mayor Chris Bollwage ("Bowl wage") from my home State of New Jersey, who testified before this committee back in 2001 in support of our bipartisan effort to enact legislation to address brownfields sites.

When we passed the original brownfields bill in the 107th Congress, I was the ranking member of the subcommittee and the lead Democrat on the legislation, which was one of the only pieces of environmental legislation that I can remember President George W. Bush ever signing into law. I worked in a bipartisan manner then with my Republican chairman, the late Paul Gillmor of Ohio, and I would like to continue this bipartisan effort as we work to improve on the program and ensure

that States and local communities have the resources they need to revitalize their communities. I hope that my colleagues on the committee will join me in working to improve this important program.

The Brownfields Program has been an incredibly important tool for protecting public health and spurring economic growth in New Jersey and throughout the country. Brownfields properties are a blight on the community. Though these sites do not warrant listing on the National Priority List (NPL) like Superfund sites, these contaminated properties can have negative environmental and economic impacts.

The success of this program cannot be understated. Removing public health hazards by cleaning up contaminated sites is incredibly important for the surrounding communities. Since the program's inception, thousands of contaminated sites have been remediated, allowing communities to create new developments- like housing and parks. EPA has found that cleaning up underutilized or abandoned brownfields properties reduces health risks, decreases pollution and reduces storm water runoff. Aside from the environmental benefits, revitalizing these properties can result in crime reduction, job creation, and boosts in the local economy.

However, as successful as the Brownfields Program has been, there is still so much important cleanup work to be done. I expect we will hear from today's witnesses about the staggering number of brownfields properties in need of remediation and the increased complexity of remaining sites.

Many stakeholders have indicated a need for increased funding and flexibility to allow States and local communities to use their resources effectively to address the increased complexity of these cleanups. Through multi-purpose grants, regional planning, and increased caps for individual grants, communities can start to tackle this problem.

Communities also need assistance with capacity building. Through job training, technical assistance, and education and outreach, communities can leverage Federal and State assistance, engage with developers in the remediation process, and take ownership of their community's revitalization. We should be equipping communities with the tools they need to ensure successful cleanups.

Despite the growing need for resources and broad support on both sides of the aisle, this successful program has never been reauthorized. And while the program has continued to receive appropriations, unfortunately, funding levels have declined. Furthermore, the Federal tax incentives have lapsed. These were incredibly useful tools that encouraged developers to remediate sites by allowing them to deduct the costs of cleanups. We cannot continue to expect the same success from a program that is underfunded and lacking the necessary tools to be effective. As we work to determine how we can strengthen this program, we should ensure that funding is part of the conversation. We should all support cleanup efforts, and should ensure that these efforts are adequately funded.

So, I appreciate today's opportunity to learn more about how we can increase the effectiveness of this program. As many of you know, I have previously introduced legislation to reauthorize appropriations and create the needed flexibility for the Brownfields Program. My legislation aimed to address some of the concerns that have been expressed by stakeholders, including increased capacity building, more flexibility in the use of grants, and increased caps on individual grants.

I would like to reintroduce an updated version of that bill soon and hope that we can work together to get bipartisan brownfields legislation signed into law this year.

Thank you, and I look forward to hearing from our witnesses.

**Mr. SHIMKUS.** And I thank my colleague, and he yields back his time. Chair now recognizes Mathy Stanislaus, Assistant Administrator for the Office of Solid Waste and Emergency Response from the U.S. EPA. He has been here numerous times, we are friends. Welcome. You are recognized for 5 minutes.

**STATEMENT OF MATHY STANISLAUS, ASSISTANT ADMINISTRATOR, OFFICE OF LAND AND EMERGENCY MANAGEMENT, ENVIRONMENTAL PROTECTION AGENCY**

**Mr. STANISLAUS.** Thank you. Good morning, Chairman Shimkus, Ranking Member Tonko, members of the subcommittee. I am Mathy Stanislaus, Assistant Administrator for the Office of Land and Emergency Management.

Brownfields sites, as has been noted earlier, are the heart of America's urban and rural downtowns and existing and former economic centers. Reclaiming these vacant and underutilized properties and repurposing brownfields are the core of EPA's community economic revitalization efforts through the Brownfields Program.

Repurposing land can be the impetus for community revitalization. Our Brownfields Program can help be a catalyst for redevelopment and revitalization and hinges on the success of key local partners working together to implement the vision of local communities. The EPA's Brownfields Program provides direct funding to communities, States, tribes and not-for-profits for brownfields assessment, cleanup, revolving loans, research and technical assistance.

The unmet need for brownfields funding for local communities to address abandoned underutilized and contaminated sites continues to rise. The demand for brownfields funding far exceeds brownfields funding levels, and is exacerbated by the increased assessment and cleanup costs.

The EPA currently is only able to fund approximately one-quarter to one-third of the competitive grant applications we have received.

The program estimates over the past 5 years, an additional 1,767 requests for viable projects scored highly, but were not selected because of a lack of funding. If EPA had the funding to select, these grants would have resulted in about 1,800 proposals being funded, which would have resulted in 50,000 jobs, and a leveraging of about \$12 billion in public and private funding.

The Brownfields Program is premised on partnerships between the public and private sector. With EPA's critical early resources providing the certainty to leverage funding from other Government agencies and private sector achieve positive economic and environmental and social outcomes. As has been noted earlier, for every \$1 EPA invests in communities, it leverages about \$18 of private-sector and other public resources. More than 113,000 jobs has been leveraged through EPA's funds, which has leveraged about \$22 billion in cleanup and redevelopment projects.

EPA's research has shown that redeveloping a brownfield site rather than a greenfield site has significant environmental benefits, including reducing vehicle miles traveled, and related emissions from about 32 to 57 percent, and reducing stormwater runoff by an estimated 47 to 62 percent.

Using Census data, EPA found approximately 104 million people live within 3 miles of a brownfield site that received EPA funding, roughly 33 percent of the U.S. population. This includes 35 percent of all children in the U.S. under the age of 5. While there is no single way to characterize communities located near our sites, this population is more minority, low-income, linguistically isolated, and less likely to have a high school education than the U.S. population as a whole. As a result, these communities may have fewer resources with which to address concerns about the health and the environment.

Preliminary analysis of the data of a subset of communities receiving grants shows that there is a significant tax revenue in-

crease from the redevelopment of brownfield sites. Our data shows that there is an estimated \$29 million to \$73 million in additional tax revenue to local governments in a single year after a cleanup. This is two to six times more than the \$12 million EPA has invested in these communities. I know over the years, there has been support for significantly increasing the amount of cleanup grants.

Now, provided this increase, we support a modest increase, but there is a risk of impacting less communities. Based on how much we increase the size of cleanup grants, we can actually reduce the number of communities that actually receive grants in the leveraging of those monies from the private sector and other public resources by to 60 percent. So 60 percent of communities may not be getting grants on a yearly basis if all we do is increase the size of the grants.

In addition, we want to preserve the local communities' knowledge and information to determine the use that best fits their vision, and not have a predetermination and division of the grant resources based on an upfront determination by the Federal Government regarding resources. We want to preserve the competition process, which looks at those communities that have the best plans in place, that have the best partnerships in place which has been the basis of the success of EPA's Brownfields Program.

With that, I will close and take your questions.

[The prepared statement of Mr. Stanislaus follows:]

**TESTIMONY OF  
MATHY STANISLAUS  
ASSISTANT ADMINISTRATOR  
OFFICE OF LAND AND EMERGENCY MANAGEMENT  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE  
SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY  
COMMITTEE ON ENERGY AND COMMERCE  
U.S. HOUSE OF REPRESENTATIVES**

**April 21, 2016**

Good morning Chairman Shimkus, Ranking Member Tonko, and Members of the Subcommittee. I am Mathy Stanislaus, Assistant Administrator for the U.S. Environmental Protection Agency's (EPA) Office of Land and Emergency Management (OLEM) that is responsible for the EPA's Brownfields program. Thank you for the opportunity to appear today to discuss the status of the Brownfields program.

Brownfields sites are in the heart of America's downtowns and existing/former economic centers and reclaiming these vacant or underutilized properties and repurposing brownfields is at the core of the EPA's community economic revitalization efforts through the Brownfields program. Repurposing land can be the impetus for spurring community revitalization.

We know the damage that abandoned, blighted, properties can do to a community, and the opportunities these properties present when local, state, or federal partners can provide seed money to leverage other private or public sector funding. That is why our Brownfields program can help be a catalyst for redevelopment and revitalization and hinges on the success of key partners working together to implement the vision of local communities. On average, approximately \$18 in private and public funding is leveraged for every grant dollar expended by the EPA's Brownfields program.

By awarding brownfields grants, the EPA is making investments in communities so that they can realize their visions for environmental health, economic growth, help support job creation and advance social goals. In reviewing proposals and awarding grants, the EPA has found that brownfields come in a range of sizes and types. Brownfields range from large industrial sites to small properties such as dry cleaners, vacant lots and gas stations. They represent the faded economic vibrancy of a community, and are often associated with social issues of high unemployment, and crime. They also represent future opportunities to revitalize the area to bring jobs, affordable housing, recreational space and other vibrant activity back to the community. Most importantly the success of the brownfields program is that it's driven by local leaders identifying a vision, and establishing local partnerships for success with the federal government resources providing critical early resources for communities to advance their vision.

These sites are hidden assets, but assets nonetheless, because of their advantages such as proximity to transportation, and other infrastructure, we are also now investing in some of the communities identified in the President's Investing in Manufacturing Communities Partnership (IMCP) initiative. The IMCP is an Administration-wide initiative that will accelerate the resurgence of manufacturing and help communities cultivate an environment for businesses to create well-paying manufacturing jobs in cities across the country. The EPA is involved in the IMCP initiative because many of these sites have past industrial uses, have access to a ready workforce that through training can participate in the cleanup, have redeveloped end uses, and are located near established universities and R&D centers. These brownfields sites are uniquely situated to attract new manufacturing activities.

The EPA's land cleanup programs help protect public health and the environment and tracks information on more than 541,000 sites, almost 23 million acres. Using census data, the EPA found that approximately 104 million people live within three miles of a Brownfield site that received EPA funding, roughly 33% of the U.S. population. This includes 35% of all children in the U.S. under the age of five. While there is no single way to characterize communities located near our sites, this population

is more minority, low income, linguistically isolated, and less likely to have a high school education than the U.S. population as a whole. As a result, these communities may have fewer resources with which to address concerns about their health and environment. Preliminary analysis of the data near 48 brownfield sites shows that an estimated \$29 to \$73 million in additional tax revenue was generated for local governments in a single year after cleanup. This is two to six times more than the \$12.4 million the EPA contributed to the cleanup of those brownfields.

The EPA Brownfields program provides direct funding to communities, states, tribes and nonprofits for brownfields assessment, cleanup, revolving loans, research, technical assistance, area-wide planning, and environmental job training. The unmet need for brownfields funding for local communities to address abandoned, underutilized, and contaminated sites continues to rise. This demand for brownfields funding far exceeds Brownfields program funding levels and is exacerbated by increasing assessment and cleanup costs. The EPA is currently only able to fund approximately one quarter to one third of the competitive grant applications we receive. The program estimates that over the past five years, an additional 1,767 requests for viable projects scored highly, but were not selected because of limited funding. If the EPA had the funding to select, and the resources to manage, the additional 1,767 high scoring proposals, the grants would have leveraged an estimated additional 50,633 jobs and over \$12 billion of public and private funding.

#### **Brownfields Program Accomplishments**

Reclaiming and repurposing brownfield sites can form the foundation for community revitalization. Achieving this opportunity is premised on partnerships between the public and private sector, with the EPA's critical early resources providing certainty and leveraging funding from other government agencies and the private sector to achieve positive economic, environmental and social outcomes. More than 113,000 jobs have been leveraged and \$21.6 billion in cleanup and redevelopment has been leveraged through brownfields project funding since the inception of the Brownfields program. In FY

2016, Brownfields program grantees are projected to assess more than 1,400 properties, clean up more than 130 properties, leverage more than \$1.1 billion in cleanup and redevelopment funding, and help create at least 7,000 cleanup and redevelopment jobs in communities that typically have unemployment rates higher than the national average. Additionally, the EPA's research has shown that redeveloping a brownfields site rather than a greenfield site has significant environmental benefits, including reducing vehicle miles traveled and related emissions by 32 to 57 percent, and reducing stormwater runoff by an estimated 47 to 62 percent.

#### **Small and Rural Communities**

Our data show that our funding and technical assistance is reaching many small and rural communities. In FY 2015 alone, 56 percent of the EPA assessment and cleanup grant funding went to small and mid-size communities of 100,000 population or less, and approximately 24 percent went to smaller communities of 20,000 population or less. The distribution of funding in FY 2015 was consistent with what we have been seeing over the past six years, with over half of the funding going to communities of 100,000 or less and about one quarter going to communities of populations less than 20,000.

In addition, the average grant award success rate of communities with populations less than 1,000 was 34 percent and for communities with populations under 10,000 it averaged 30 percent which compares favorably to our overall average success rate of 28 percent for all communities that enter our grant competition. Additionally, our Technical Assistance to Brownfields Communities (TAB) grantees have provided technical assistance to hundreds of small and rural communities.

#### **Brownfields Grants**

##### **Area-Wide Planning Grants**

The EPA's Area-Wide Planning Grant Program is a relatively recent innovation that emerged from economically distressed communities and at its heart is a strategy for inclusive economic development

with the provision of critical needed resources to develop a viable plan to turn around their communities. These critical resources enable communities to conduct inclusive research on community redevelopment priorities, study the degree to which the market can support those priorities, assess infrastructure needs that will help to reverse decline and decay, and propose feasible brownfields cleanup and reuse strategies that tie directly to meeting community needs. A key factor in the emergence of this tool is a community's desire to have a direct stake in the redevelopment strategies so they can benefit from the redevelopment and avoid displacement of long term residents and existing businesses.

Through our Brownfields Area-Wide Planning Grant Program, the EPA is enabling communities to identify cleanup and reuse scenarios for the high priority brownfields sites within their neighborhood (or downtown, waterfront, commercial or industrial corridor, etc.) and use these sites as catalysts to drive larger community revitalization efforts. These grants result in the development of area-wide plans that include broad community involvement including stakeholder and partnership engagement, brownfields and market-based economic and feasibility analyses, evaluations of existing environmental conditions and infrastructure, coordination with other local or regional community planning efforts, and financial strategies needed to generate new economic vibrancy in areas characterized by abandoned and underutilized brownfields properties.

The program also helps communities identify resources they can access (or need to access) to help implement the projects identified in the plans, and to attract the public and private sector investments needed to help with cleanup and area revitalization, in a more systematic and resource-effective manner. The EPA has completed three rounds of grants since we initiated the program in 2010, and we expect to open the next grant round in May of this year. Information provided by grantees so far, indicate the \$12 million in EPA grant investments has helped to leverage at least \$354 million in other public and private sector funding - plus additional EPA brownfields assessment and cleanup resources - all of which is helping communities achieve the revitalization goals identified in their area-wide plans.

To foster the implementation of these plans, the EPA has partnered with other agencies such as Housing and Urban Development (HUD) and Department of Transportation (DOT) to take a one government approach to redevelopment implementation resources. Specifically, we have advanced the “preference and priority” concept, under which federal funding to communities is more strategically delivered to benefit communities that have taken the time and effort to inclusively plan for what is wanted and needed by their residents. The approach can help address important issues of equity by ensuring that disadvantaged and small and rural communities get a fair chance to receive critically needed resources. The concept, if implemented properly, rewards those communities that authentically engage citizens through a process that considers the various and competing needs of everyone. The concept also maximizes the benefits to communities by ensuring that resources are layered to spur real revitalization. This essentially would deliver federal economic development resources based on a local community’s vision, built on strong local partnerships, and an inclusive local engagement process. In effect the concept of preference and priority begins to address the siloed funding of community development funding by linking implementation resources based on a holistic community based plan, rather than funding be based strictly on program criteria.

For example, the Ironbound Community Corporation (ICC) in Newark, New Jersey worked closely with the members of the East Ferry Street neighborhood to plan for the complete transformation of four co-located brownfields sites that together comprised a large superblock industrial barrier which disconnected the Ironbound community. The brownfields area-wide plan was used to develop feasible reuses for these catalyst sites which reflect the neighborhood priorities for more greening and growing, recreation space and markets that provide goods and services. With ICC leading the process and working hand-in-hand with the community and City, the East Ferry Street neighborhood now has new community garden spaces, an open-air market (including farmer’s market) and will soon have improved recreation opportunities including volleyball and basketball courts. As this area is now seen as a center

of new investment, one of the brownfield sites will soon become a large enclosed vertical garden and global headquarters property, with ICC handling job recruitment, certification, and training so that up to 78 jobs will be provided to locals. A variety of resources are being leveraged to support ICC's brownfields area-wide planning goals, including significant private funds, state economic development funds, a U.S. Department of Agriculture Farmer's Market Promotion Program grant, HUD Community Development Block Grant funds (provided via the City); two EPA environmental justice small grants and two EPA targeted brownfields assessments.

In Toledo, Ohio, the City is addressing challenges associated with the multiple brownfields sites located within the Overland Industrial Park and Cherry Street Legacy neighborhoods, including high poverty and unemployment rates, a high percentage of vacant parcels, limited access to healthy food and services, and difficult transportation access due to an outdated street layout. Through their brownfields area-wide planning process, the City of Toledo worked with local residents, community organizations, private sector entities, foundations, and non-profits organizations to develop a strategy to rebuild an impoverished and neglected area into one that is vibrant and vital. This effort has already resulted in the leveraging of new support from the Funder's Network Partners for Places initiatives, Vista volunteers from the Corporation for National and Community Service, the U.S. Forest Service, Groundworks USA, and brownfields assessment support from the State of Ohio. It has also created the excitement and momentum that can help drive the project forward in creating a revitalized area with a mix of industrial, commercial, and live/work spaces.

By working closely with grantees, we have identified several cross-project themes that help grantees develop successful brownfields area-wide planning projects. Most notably, the strongest projects have well-managed and innovative community involvement opportunities throughout the project, well-maintained partnerships, feasible cleanup and redevelopment scenarios, clear priorities and strategies

developed for plan implementation, and a focus on maximizing investments and leveraging. We encourage our current grantees to incorporate these and other key lessons learned from past projects.

*Assessment Grants*

Assessment grants provide funding to inventory, characterize, and assess properties; develop cleanup plans; and conduct community involvement activities related to brownfields. Assessment grants have the effect of being a financial risk management tool by identifying a management strategy for environmental conditions. The environmental site assessment is a key redevelopment tool that provides the information that communities need to jump-start economic development and reuse. Such information is critical in financial underwriting and generally providing cost assurance as a predicate to additional funds necessary to cleanup and redevelop these projects. Grantees have reported to the EPA that brownfields assessment grants have led to the cleanup of more than 1,391 properties, and another 6,373 sites were found not to require cleanup. Data provided by the EPA-funded site assessments indicates that about 27 percent of the properties assessed show little or no contamination, thus making these sites available for development and reuse after a relatively small public investment. Since the program's inception, the EPA has awarded 2,466 assessment grants to small and large communities, usually for \$200,000 each, for a total of \$589.2 million.

In many communities, the EPA's brownfields assessment and cleanup programs address critical site preparation needs that have made the EPA program the first step in the economic redevelopment process. For example, in November 2015, a groundbreaking ceremony was held in Pittsburgh to initiate construction of the Foundry at 41st, a \$35 million residential development that will turn part of a former 19th-century foundry into a place featuring 182 apartments, an outdoor pool, a rooftop terrace, a dog park and a public park along Willow Street in Lawrenceville, the East End neighborhood of the City. The property was previously used to manufacture and service mill equipment. The site was assessed using EPA brownfields assessment funding which paved the way for the eventual cleanup and

redevelopment of the site. The centerpiece of the project is Bay 4, the hulking remnant of the former mill building, a football field in length, which will be used for community public space.

Likewise, EPA assessment, cleanup and revolving loan fund grant funding were a critical part of the City of Brea, CA's Rails-To-Trails project. The City of Brea, California's Rails-to-Trails project will transform an abandoned Union Pacific railroad corridor and other city properties into a multiuse trail using assessment and cleanup funds. The Tracks at Brea will consist of a 4.5-mile east-west route across the city featuring a two-way paved bicycle trail and a separate pedestrian path. Comprising about 50 acres of linear open space, the project will create a significant public amenity within an urban corridor previously lacking in recreational and open spaces. The long-term goal is to connect the Tracks to pedestrian and bicycle infrastructure in neighboring cities. The EPA has awarded \$2.7 million toward the project, including brownfields assessment (\$200,000), cleanup grants (\$800,000) and revolving loan funds (\$1.7 million) to address environmental challenges. The city also received more than \$7.6 million in funds from various federal and state agencies for the project. Construction is underway in several segments, and the entire project is expected to be completed in 2016-2017.

Additional examples include Van Buren County, Michigan that used funding from three EPA brownfields assessment grants (\$600,000) to conduct 29 Phase I Environmental Site Assessments, 19 Phase II Environmental Site Assessments, and 19 Supplemental Assessments. This resulted in making 25 properties (136 acres) ready for reuse, leveraging 51 jobs and leveraging nearly \$3.2 million in redevelopment. The most notable achievement was leveraging a Meijer Superstore in South Haven which created local jobs and brought in \$2 million of private investment. Similarly, the Indiana 15 Regional Planning Commission has used two EPA assessment grants (\$400,000) to complete 28 Phase I ESAs, 25 Phase II ESAs, five supplemental assessments and made three properties (2.17 acres) ready for reuse, leveraging \$1,278,450 in private funds. Danville, Illinois, a small community in Illinois (population 33,000) also used a \$400,000 EPA assessment grant to complete 17 Phase I ESAs, eight

Phase II ESAs, and three supplemental assessments making two properties (1.33 acres) ready for reuse, leveraged 11 jobs and \$220,000 in redevelopment.

In Homestead Borough, Pennsylvania, the Voodoo Brewing Company recently announced that it will open a new craft beer brew pub on a brownfield site. Funds from an EPA brownfields assessment grant were used for Phase I environmental assessments to evaluate environmental concerns at several properties, including the Borough's former municipal building and adjacent properties. Voodoo Brewing purchased, renovated and redeveloped the land and buildings of the former municipal building. The environmental assessments were funded through a \$600,000 Brownfields Coalition Assessment Grant awarded to the Turtle Creek Valley Council of Governments. Since award of the grant, Turtle Creek has assessed more than 12 Brownfields properties in the coalition area, which includes 42 municipalities in southeastern Allegheny County and a portion of Westmoreland County in southwestern Pennsylvania. These and other communities across the country have made significant progress in assessing and cleaning up their brownfield properties, but continue to need additional brownfield assessment funding due to the number of brownfields sites in their communities.

#### *Cleanup Grants*

The EPA awards direct cleanup grants of up to \$200,000 per site to public and nonprofit property owners to carry out cleanup activities at brownfields sites. Since passage of the Brownfields Law, the EPA has awarded 1,128 cleanup grants totaling \$214.9 million. In Fairborn, Ohio, a former cement plant was reborn as a training venue where emergency first responders build their skills. Funding for the site remediation came from a \$200,000 Brownfields cleanup grant, \$1 million from Wright State University and \$2.8 million from the Clean Ohio Fund. After two years of cleanup and revitalization, the property is the home office for the National Center for Medical Readiness, along with a tactical training facility managed by Wright State University. It is the first-ever research and training facility focused on the medicine of emergency disaster response. The project is poised to deliver a variety of benefits for the

region. Due to the property's location on a state highway and close to downtown, the city expects the site to become a viable economic driver. Already, 16 permanent jobs have been created and more are expected as the university brings in additional staff to do the training.

In Luzerne, Pennsylvania, the EPA has been working with the Earth Conservancy as they work on parcel by parcel recovery of coal mines and coal storage areas among the 16,500 acres acquired from the bankrupt estate of the Blue Coal Company in the mid-1990s. Since 2003, Earth Conservancy has received 12 EPA cleanup grants totaling \$2.4 million which coupled with other investments has leveraged \$42.8 million in mine waste recovery and acid mine drainage controls and treatment that has helped reclaim nearly 2,000 acres. This has resulted in creation of green space and recreational trail and road development as well as commercial, industrial and residential redevelopment that includes a college dormitory and the return of some land to agriculture and farming.

These examples help demonstrate the model for successful brownfields cleanup projects-the EPA resources being part of the overall cleanup and redevelopment that not only maximizes limited federal resources to as many communities as possible but also incentivizes the public partnerships that are the anchor to a successful brownfields project.

The EPA cleanup grants allow us to deliver resources to a wide-range of projects across many communities. At \$200,000 per cleanup grant, the EPA often provides the first dollar that leverages other public and private funding. The current program's success depends in large part on the ability of local communities to determine the best uses for brownfields sites based on their community engagement, their economic and infrastructure circumstances and other factors deemed important to advance a successful project. The grants are awarded based upon the strength of an applicant's response to statutory requirements, program criteria, and other factors. This has led to a broad range of successful projects from housing, manufacturing, clean energy, and recreational projects in both inland and

waterfront sites. Our experience implementing the Brownfields program indicates that community decision-making regarding local property reuse and development has the greatest chance of community support and success.

*Revolving Loan Fund Grants*

The Brownfields Program also supports property cleanup with grants to states and local governments to capitalize revolving loan funds. The Brownfields Revolving Loan Fund (RLF) grants provide the capital to make low or no interest loans and sub-grants to finance brownfields cleanup. Since passage of the 2002 Brownfields Law, the EPA has awarded 330 RLF grants totaling \$320.2 million. A Brownfields Revolving Loan Fund grantee, Downriver Community Conference (DCC), made a \$2.2 million loan to a developer to clean up a former industrial waste landfill at the Port of Monroe, Michigan. The site is now home to a fully operational green energy manufacturer. The company is a full-service fabricator and supplier of industrial scale wind turbine towers. The company has worked with the local community college to develop a specialized training curriculum for high-end welders that are required for its workforce.

Another example of how a modest investment of EPA assessment and RLF funding has made a big economic difference is in Newport, Oregon. The Port of Newport's terminal was assessed and cleaned up using a \$200,000 EPA assessment grant and \$1,793,151 of EPA revolving loan funds provided by a loan from the Oregon Business Development Department and now is completely rehabilitated. The new terminal was constructed in the same place, but covering a smaller footprint than the original Port. The new, award-winning terminal provides a modern cargo dock for commercial import/export and more accessible offices and buildings. The project has already leveraged \$23.4 million in redevelopment.

Not only are loans important, but also the ability of RLFs to provide sub-grants for worthy community projects. For example, the Redevelopment Authority of the County of Washington, Pennsylvania

provided a \$100,000 sub-grant to Tri-County Patriots for Independent Living, Inc. (TRIPIL) for remediation of asbestos-containing materials at the former YWCA building in Washington, Pennsylvania. The sub-grant was provided through the Redevelopment Authority's Brownfields RLF Grant. The former YWCA building is a 27,000 sq. ft. three-level stone masonry structure in the classic Elizabethan Revival style. The project was conducted in close consultation with the Pennsylvania State Historic Office to ensure that the remediation work did not impact the building's historic resources. The site is intended to be the future home of TRIPIL's offices and their Southwestern Pennsylvania Disability Services/Training Community Center. The renovated building and a new addition will include three stories which will incorporate the existing façade and performance area to preserve the historic features of the structure.

In response to stakeholder interest to combine assessment and cleanup resources, in 2012, the EPA piloted a multipurpose grant. These nine pilots are in the final year of their grant period and while a full analysis has not been completed, the pilot indicates that the more successful multipurpose grant recipients were those that had multiple areas of a brownfield site that needed assessment and cleanup funds simultaneously, such that timing did not become an impediment. The EPA is taking these lessons learned and is exploring other multipurpose options, such as assessment and RLFs and assessment and technical assistance funds.

*Environmental Workforce Development and Job Training Grants*

As communities clean up brownfields and other contaminated sites, they need a trained workforce with environmental cleanup skills. The EPA's environmental workforce development and job training (EWDJT) grants provide funding to recruit, train, and place local unemployed or underemployed residents of brownfields-affected communities with the skills and certifications needed to secure full-time environmental employment in their communities, including placing graduates in brownfields assessment and cleanup projects and in the larger environmental field.

EWDJT grants form the basis of effective partnerships with local businesses that directly impact local economies. Grant funds are provided to applicants that obtain commitments from employers to hire graduates from their programs. Local businesses provide input into the development of training curricula and in turn hire graduates to work with their businesses performing environmental remediation in their communities. Graduates of the EWDJT program are placed in local jobs conducting site assessments, brownfields and Superfund cleanup, wastewater treatment facility operations, underground storage tank removals, mold and asbestos removal, oil spill cleanup and emergency response, and other environmental services related jobs. To date, the EPA has funded 256 job training grants.

Approximately 14,700 individuals have completed training, of which, approximately 10,600 have obtained employment in the environmental field with an average starting hourly wage of \$14.34. This equates to a cumulative placement rate of approximately 72% since the program was created in 1998.

Opportunity Advancement Innovation, Inc. (OAI, Inc.) in Chicago, Illinois, has trained more than 360 unemployed residents, and of those, 325 were placed in full-time employment in the environmental field, including brownfields assessment and cleanup work. OAI, Inc. recruits and trains individuals from underserved populations, including formerly incarcerated individuals, minorities, and veterans. Working closely with their partner, Greencorps Chicago, OAI, Inc. trains graduates in environmental health and safety, ecological restoration, and green infrastructure installation. Graduates of the program have gone on to work for local contractors and environmental firms involved in environmental remediation, mixed industrial and commercial corridor revitalization, and green space restoration.

Several other EWDJT grantees throughout the country are supporting entrepreneurial development in conjunction with the EPA funded environmental training, fostering growth of the environmental industry and helping to address unemployment in America's most economically distressed and blighted communities. Graduates of the program have also participated in the response and cleanup associated

with the BP Oil Spill along the Gulf Coast, the World Trade Center site in New York City, and Hurricanes Katrina, Rita, and Sandy.

*Targeted Brownfields Assessment*

In addition to its grant programs, the EPA conducts Targeted Brownfields Assessments (TBAs) through contracts with small and large businesses and interagency agreements with our federal partners. The assessment services are delivered directly to communities and tribes through the EPA contracts, enabling small and rural communities to address sites when they lack the resources or capacity to successfully compete for brownfields competitive grants. These single property assessments help communities on a direct basis, especially small and rural communities. The EPA has allocated more than \$68 million for TBA support in fiscal years 2003 through 2015. To date, the EPA has conducted TBAs at more than 2,400 properties.

An example of the valuable role that TBAs play in the redevelopment of brownfields is the Owensboro Riverfront project. The Owensboro Riverfront project in Kentucky is an ambitious revival of the parks and public areas sitting on the Ohio River. Both federal and state TBA monies were used to perform preliminary assessments on properties in and around the riverfront. It is now home to a new convention center, several new hotels and public areas that host community events.

**Technical Assistance**

An important aspect of the Brownfields program is providing technical assistance to communities that may not have the capacity to successfully compete for a brownfields grant. Our technical assistance providers are extremely successful in providing workshops and one-on-one assistance to all brownfields communities, with a special focus on small and rural communities. For example, Technical Assistance to Brownfields (TAB) Communities grants support technical assistance providers in every region of the country who work with communities to help them increase their understanding and involvement in

brownfields cleanup and revitalization, help to move brownfields sites forward in the process of cleanup and reuse, and identify and assist in preparing applications for funding resources. The TAB grantees serve as an independent resource assisting communities with community involvement, better understanding the health impacts of brownfields sites, science and technology relating to brownfields site assessment, remediation, and site preparation activities, brownfields finance questions, information on integrated approaches to brownfields cleanup and redevelopment, facilitating stakeholder involvement, understanding and complying with state brownfields and voluntary cleanup program requirements, and facilitating redevelopment activities.

On average, TAB grantees spend over half of their effort providing direct, site-specific technical assistance to communities that ultimately contributes to cleanup and redevelopment. It is important to note that even the general brownfields information provided by TAB trainings, workshops and seminars can have a ripple effect that often leads to cleanup and redevelopment. We have cities tell us that it was attending one of the TAB grantee sessions that got their brownfields program started. In the past five years, the TAB Program has provided technical assistance to several thousand communities across the country.

#### **Cross-Agency Partnerships**

For nearly seven years, the Brownfields program has participated alongside fellow EPA offices, the Department of Housing and Urban Development (HUD) and the Department of Transportation (DOT) in the Partnership for Sustainable Communities. Together, our joint efforts help to ensure that federal investments, policies, and actions support development in an efficient and sustainable manner, ensuring that each agencies' policies, programs, and funding consider affordable housing, transportation, and environmental protection. Through the Partnership, the Brownfields program is able to identify key opportunities for cross-agency coordination and alignment of funding, and to strengthen our knowledge of other federal agency programs, which helps us to better assist the communities we work with. We

know that each federal investment can be maximized when the local planning, infrastructure, facilities, and services are coordinated and leveraged to meet multiple economic, environmental, and community objectives.

For example, investing in public transit can lower household transportation costs, provide better access to more job opportunities, reduce greenhouse gas emissions and air pollution, decrease traffic congestion, encourage healthy walking and bicycling, and spur development of new homes and amenities around transit stations. Investing in brownfields near transit brings new sites into productive use, and can increase the use of transit. This effort maximizes the impact of millions of dollars in federal resources for transit, housing and brownfields by aligning priorities in a collaborative approach that benefits the communities in need of assistance.

As I mentioned before in my testimony, the Administration has undertaken the IMCP, that designated its first areas in May, 2014. This initiative supports communities to develop integrated, long-term economic development strategies to take advantage of emerging manufacturing investment opportunities stemming from re-shoring and expanding economic activity. IMCP involves a dozen federal agencies, ranging from Commerce and DOT to USDA and DOL. The EPA plays a lead role in IMCP's design and initial implementation. Of the 24 community consortia designated to date, more than half have identified an environmental component as integral to their future manufacturing success - about half of the designated IMCP communities are considering a focus on brownfields as a location for new facilities.

The EPA strongly supports new manufacturing investment consistent with other goals related to brownfield reuse and sustainability. It makes the most sense to promote new manufacturing in areas which have been used for industrial purposes before, thus green space is saved; infrastructure (and sometimes structures) can be reused, typically at lower cost than new installations; and jobs are created in proximity to people and supportive services. But reusing property almost always triggers an

assessment to determine what legacy from past uses might remain, and how it can be addressed to minimize future liabilities - in other words, an environmental overlay on the economic redevelopment process. As we have experienced during the years implementing the Brownfield program, developers, investors, and lenders often will not consider previously used properties unless they are comfortable that risk can be defined and managed and this includes environmental risk.

Over the past decade, many manufacturing projects have been kick-started with EPA brownfield resources, and continued through to completion with other federal resources - with the most common programs leveraged being HUD's Community Development Block Grants, EDA's public works grants, DOT TIGER grants, and USDA rural development grants and loans. Federal agencies involved in community economic development, including the EPA and its Brownfields program, have worked and will continue to work through the IMCP process to enhance the ability of communities to promote manufacturing.

#### **State and Tribal Programs**

Under the Brownfields Law, the EPA provides non-competitive grant assistance to build capacity and establish state and tribal response programs so that brownfields sites in communities can be cleaned up and reused. States and tribes are at the forefront of brownfields cleanup and reuse. The majority of brownfields cleanups are overseen by state response programs. Section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provides grant assistance to states and tribes to build capacity and strengthen state and tribal environmental response programs. State and tribal programs have proven to be effective partners by using this grant funding to address site assessments and cleanups. Since 2006, CERCLA 128(a) grantees reported that an average of more than 37,800 properties were enrolled in state and tribal response programs and more than 1,228,000 acres were made ready for reuse. Additionally, since 2006, state and tribal response programs provided technical assistance at more than 40,300 properties.

Similarly, tribal response programs are taking an active role in the cleanup and reuse of contaminated property on tribal lands. Tribes are developing and enhancing their response programs to address environmental issues on tribal lands. Through brownfields grant assistance, tribes are creating self-sufficient organizations for environmental protection. Tribal response programs conduct assessments, create cleanup standards, and educate their communities about the value and possibilities of brownfields clean up and reuse. The development of state and tribal programs is essential to help ensure the successful implementation of the national brownfields program. Providing financial assistance to states and tribes increases their capacity to meet brownfields cleanup and reuse challenges. In fiscal year 2016, the EPA received \$54 million in requests for cleanup programs from states, tribes, and U.S. Territories. However, requests for funding were limited to no more than \$1 million so this is not fully representative of the state and tribal response program funding needs. A majority of brownfields cleanups across the country are being conducted under the supervision of these programs. These funds complement state funds to help administer their programs.

The EPA awards funds to states and tribes through a national allocation process. The funding allocation takes into consideration the proposed activities that help ensure effective planning and development of response and voluntary cleanup programs, activities that provide the public with access to information on site cleanups, create an environment for meaningful public participation, and the remaining balance of funds available to the grantee from prior years' grant awards. The EPA has reemphasized the importance of these resources being used for capacity building of state and tribal programs. States and tribes use the grant funding for a variety of activities. For some, the funding provides an opportunity to create new response programs to address contaminated properties, while for others it allows them to enhance existing programs. Other states, such as Colorado, use the funds to support cleanup revolving loan funds, while some states, such as Pennsylvania and Kentucky, provide support for communities to address brownfields. Many, such as Texas and Ohio use a portion of the funds to conduct site specific

activities, such as the assessment and cleanup of brownfields sites. States' programs provide oversight of cleanups enrolled in their cleanup programs, such as New York, which provided oversight in the City of Albany as they completed an important phase of its South End Revitalization Project. Since fiscal year 2003, states and tribes have reported the completion of more than 2,700 site assessments on brownfields properties.

#### **Liability Protection**

A critical element of the Brownfields Law is the statutory liability protections and clarifications under CERCLA for certain landowners who are not responsible for prior contamination at brownfields properties. The Brownfields Law clarified the landowner liability protection of bona fide prospective purchasers, innocent landowners and contiguous property owners under CERCLA. These self-implementing protections increase comfort and certainty for prospective purchasers and provide incentives for redeveloping brownfields.

To qualify for liability protection, property owners must satisfy certain statutory requirements. For example, prior to acquiring a property, purchasers must meet environmental due diligence requirements by undertaking "all appropriate inquiries" into the previous uses and condition of the property. In collaboration with a wide range of stakeholders, the EPA developed a regulation establishing standards for conducting "all appropriate inquiries." The final rule was issued in November 2005 and went into effect in November 2006. To further increase comfort and certainty and advance brownfields cleanup and redevelopment, the EPA has issued guidance and enforcement discretion policies clarifying the steps that prospective purchasers, including local governments, can take to qualify for these liability protections.

**Brownfields Reauthorization**

The EPA supports reauthorizing the Brownfields program consistent with the 2002 Brownfields Law, with technical corrections included as part of the process. The EPA is ready to work with Congress and stakeholders on reauthorization efforts. It is important that any reauthorization effort be developed to avoid unintended consequences that would adversely affect the successful implementation of the Brownfields program.

**Conclusion**

The EPA's Brownfields program serves as an innovative approach to environmental protection, supporting environmental cleanup, reducing neighborhood blight, preserving greenspace, leveraging private investment, leveraging jobs in cleanup and redevelopment activities, and promoting community revitalization. Our continued success will require collaboration among all levels of government, the private sector, and nongovernmental organizations. The EPA will continue to implement the Brownfields program to protect human health and the environment, enhance public participation in local decision making, help support safe and sustainable communities through public and private partnerships, and demonstrate that environmental cleanup can be accomplished in a way that promotes economic redevelopment.

Mr. MCKINLEY [presiding]. Thank you, Administrator, it is always good to see you. Thank you, again, for coming. Before we get into other questions, I think I was going to reserve this for the chairman to make his remarks, but perhaps—I do want to ask something before we get started, and I will begin with the ranking member. We have got an example, I know, in West Virginia, of real benefits. You talked about 18 times, we have got one up in the northern panhandle of West Virginia in Hancock area that, for \$2.5 million, they have invested over—private sector had put \$70 million in. So it is almost a 30-to-1 odds up there for that. It has really had an impact. So I want to thank you for working with them on this program. Pat Ford was the contact up there, if that name rings a bell with you or not.

But secondly, back to your testimony, in your written testimony, you talked about 24, 25 percent of the grants went to towns of 20,000 or fewer. I would be curious to take that down a little bit further, and to find out, I think, in some areas of rural America, especially mine, most of the communities are less than that, significantly less, 1-, 2-, 3,000 people. When the coal mines are shut down and all the work that was related to those coal mines, they may only have 700 people in the town and they have got—there is no money, there is no money in that community. Can you share with us a little bit about the flexibility you have to earmark it towards rural areas that need help when the railroads—when the mines shut down, that means the railroad shuts down. And when the railroad shuts down, we know invariably there are going to be some brownfield sites associated with where the rail siting had been. They can't afford to do it. So can you help a little bit about explaining, maybe really rural areas of 2,000 people or fewer, do you have any sense of what that might be percentage-wise?

Mr. STANISLAUS. Sure. I would answer in a couple of parts. One, I think particularly the smaller communities, rural communities, have asked us and we have—that upfront technical assistance really is key. The capacity for these rural communities to be able to compete is really critical. So we provide a lot of upfront assistance. We have a national network of technical assistance providers. In fact in West Virginia, there is a center to provide assistance to the local community, I think one of the more successful ones in the country. So the upfront technical assistance is really critical to develop the capacity or identify opportunities. We also have a non competitive mechanism where a local community wants to do an assessment on an individual site. What a lot of local communities, or smaller communities have said, is that they don't really want to administer a grant, because there is a lot of administrative burdens associated with the grants. They would rather—if they have an individual site, they would rather assess that site. So we have a contract-based mechanism to assess a particular site. So we think that is successful as well.

In terms of the grant process itself, one of the things that we have done is we have separated out new and existing grantees, and that has resulted in increasing the number of smaller communities and rural communities receiving grants. So those are a number of things that we have put in place.

Mr. MCKINLEY. OK. I am just trying to put it in context. We often talk about the Speaker's home in Janesville, Wisconsin, being a small town. It is three times the size of my hometown. I live in the largest city in my district. So I think we have to understand, there are a lot of small towns. So let me follow up. Would it be advantageous for some of these small towns to collectively put together a regional approach towards it and get funded? Would that help?

Mr. STANISLAUS. We have—

Mr. MCKINLEY. We have been that told they couldn't do that. You and I haven't talked about that, but I want to, give a chance this morning to talk about that. Would a regional approach be helpful for small towns to get together so that they may be collectively come up to 3,000 or 4,000 people?

Mr. STANISLAUS. Oh, absolutely. And we could do maybe better averaging regarding that. We have something called a Community-Wide Assessment grant. So one or more communities can say, We want to have a single grant to be administered over a broad geography, so we can look at that.

We also have an Area-Wide Planning Program, which is intended to look at not just the sites itself, or not just the contaminants itself, look broadly at what will it take to redevelop an area, what will enable market studies, enable local visioning, enable infrastructure studies. In fact, in our next round, we are going to do a particular focus on communities that have closed coal mines and closed power plants.

Mr. MCKINLEY. Thank you. And now let me recognize Congressman Tonko from New York for 5 minutes.

Mr. TONKO. Thank you, Mr. Chair.

Administrator Stanislaus, thank you for your testimony. As I indicated in my opening statement, this is a great program. I would like it to have the additional resources and statutory changes necessary to make it even greater. I believe that folding brownfields cleanup into broader regional economic development efforts can help local, county and regional authorities to make smart and sustainable planning decisions.

In my district, for example, we are trying to determine which parts of a waterfront will be developed, and which will be left green in a long stretch of miles along an intercoastal waterways system. Brownfields cleanup priorities should be considered in this effort. New York State's Brownfield Opportunity Areas, the BOA program, takes a neighborhood or area-wide approach rather than the traditional site-by-site approach to the assessment and redevelopment of brownfields. This allows for more comprehensive planning, and, certainly, a stronger sense of cleanup. I believe this is similar to EPA's area wide planning grant. So I would ask you to give us a quick history of this type of grant, you know, how has it changed since its inception? And what is the thinking at EPA?

Mr. STANISLAUS. Well, I actually brought the Area-Wide Planning approach to the EPA from my work in New York on developing the Brownfield Opportunity Area program. And we think it is really critical and has been really successful, particularly with communities with economic distress, to look at, more broadly, the planning side, the market study side, the infrastructure study side.

Just to give you a bit of leveraging, the recipients of Area-Wide Planning grants, to date, have reported that the \$12 million in grants have leveraged about \$354 million above the public and private resources. One of the things that we really emphasize is, use these grants to identify implementing resources, so let's just not have a plan for plan's sake, let's figure out, of our plan, what kind of Federal, State and local resource are there to implement the vision coming out of a local community.

Mr. TONKO. If I might ask, do you see economies? Have you witnessed or somehow interpreted economies of scale by doing perhaps testing, and some of the drilling they need to do in these areas to determine the response? Has that produced any sort of economies of scale by doing it in a regional capacity rather than community by community, doing their individual thing?

Mr. STANISLAUS. Yes. One thing we have seen from the first set of grants in the Federal Government is that it is important to develop a boundary that makes sense. It could be a geographic boundary, it could be a multi political jurisdictional boundary, but what works is making sure that there is a real-working governance structure and a real-working geography.

We have found early on that if a job is too big, that it actually impedes success. We ask folks to identify a few catalyzing sites, identify geography that is manageable, show success there before you go broader.

Mr. TONKO. What would be too large? Do you have any—could you share what is too large? Is it beyond a certain mile measurement?

Mr. STANISLAUS. I am sorry. Say that again?

Mr. TONKO. Is there a certain mile measurement along from distance from each other, or what is too large?

Mr. STANISLAUS. Well, I think, frankly, it is going to depend on the part of the country. What we found is, we have large industrial corridors, multiple municipalities work together historically. That is a natural fit. But if you have communities that are dispersed by miles, it is very hard for that to work. So it really depends on a little bit of history, and a little bit of working relationship on the ground.

Mr. TONKO. OK. And in terms of nonprofits, they can be partners for local governments and developers to get projects completed, especially for our many disadvantaged communities. Are non profits currently able to receive grants for a cleanup?

Mr. STANISLAUS. Well, no. And clearly, what we have heard from various not-for-profits, who really serve as an extension of local government—

Mr. TONKO. What about the ability to receive grants for assessments?

Mr. STANISLAUS. I am sorry, they are only eligible to get assessment grants.

Mr. TONKO. Are there any concerns as to why non profits with a good traffic record for cleanup grants should not be qualified?

Mr. STANISLAUS. It is a statutory issue.

Mr. TONKO. What is your sense? Do you think that we should amend the statute?

Mr. STANISLAUS. I do, I do. Clearly, focusing on those not-for-profits that play a role in redevelopment and have the local partnerships to enable a project moving forward.

Mr. TONKO. Are there additional tools that EPA has for capacity building for disadvantaged communities?

Mr. STANISLAUS. Additional tools. Well, I think I described a little bit on the technical assistance program is really critical. Funding local entities to provide direct technical assistance to municipalities. So those are the things we have been doing, doing upfront outreach. So those are the things we have been doing.

Mr. TONKO. I would just state—and I see that my time is up—but I would state that a comeback scenario for many of our disadvantaged communities that has a brownfield cleanup situation needs additional focus, and the assistance that we can provide for that would be important. I have many other questions that I will enter for into the record so that EPA can respond to those concerns.

Mr. STANISLAUS. OK.

Mr. TONKO. Thank you very much, and I yield back.

Mr. MCKINLEY. Now, for the next round of questions come from Dr. Bucshon of Indiana, 5 minutes you are recognized.

Mr. BUCSHON. Thank you, Mr. Chairman, and this will springboard off Congressman Tonko's questioning. We know that many of the brownfield sites already cleaned up and redeveloped are less complicated sites. For sites that are more contaminated and thus more complicated than others, what can be done to encourage cleanup and redevelopment of these sites?

Mr. STANISLAUS. Well, I am a big believer, and we have done studies, independent studies. From a financial-transaction perspective, the site assessment resources are really critical to better manage the risk of a site. In terms of how do you translate this unknown to a known? How do you translate the contaminants to what does it take to clean up, so then that could be underwritten in terms of the subsequent financing.

Mr. BUCSHON. Are some of the sites federally owned? Anything federally owned, or I don't know, do the Feds clean these up themselves? For example, I have an old nerve gas plant in the northern part of my district, facility—there was a DOD, and it took years and years and years to get that repurposed into, now it is an economic development area and it was—is this program involved in any of that stuff or that is totally separate?

Mr. STANISLAUS. Yes, that is largely separate. There is a separate tract of figuring out how DOD properties, or DOE properties can be transferred by making sure that the Federal Government addresses this liability, either before transfer or subsequent to transfer.

Mr. BUCSHON. Once the property is transferred, I guess no one in the private sector would take a transferred property in that kind of condition, but once that type of property, then would be in the Brownfields Program? I am just trying to clarify.

Mr. STANISLAUS. No. So typically, in a DOD kind of property, it is typically transferred to a local government.

Mr. BUCSHON. Which this was.

Mr. STANISLAUS. Yes. And then, either some cleanup is done, or some parcelling of that property to redevelop some parcels and not others.

Mr. BUCSHON. Yes.

Mr. STANISLAUS. And then there are ways of limiting liability through instruments with the State and through some insurance products.

Mr. BUCSHON. Are there other Federal agencies barriers to getting some of these sites redeveloped? For example, fish and wildlife, I can name other agencies. Are those barriers—I know most of these are industrial buildings that are old factories. But, I mean, are there other Federal agencies that have to be interacted with that are barriers to getting some of these sites cleaned up that you are aware of?

Mr. STANISLAUS. Yes. I don't think necessarily barriers. We do, in fact, engage with other agencies on the economic development resources side, like DOT and HUD. We want to make sure that once the assessment is done, once the cleanup plan is developed, that the implementing resources like TIGER grants from DOT, for example, that there is some advantage for communities who have done the hard work and similarly with HUD, we have been working with HUD as well.

Mr. BUCSHON. How many applications do you get per year approximately?

Mr. STANISLAUS. Oh, can I get back to you, I—

Mr. BUCSHON. I know I am putting you on the spot.

Mr. STANISLAUS. Yes. I have it here, but I will get back to you.

Mr. BUCSHON. OK. You won't be able to answer this either. I was going to say, approximately, how many grants do you award every year?

Mr. STANISLAUS. Well, I will give you a percentage. We are only able to fund about 25 percent to 30 percent of the grants we receive from applicants.

Mr. BUCSHON. So—I mean, it is complicated, right? But how do you analyze an application to determine whether a project is going to be successful? Is there, like, some immediate things that a red flag goes up, just might as well not even try to get a grant from us? There is probably entry-level type decisionmaking, and then—I was a doctor, so triaging of possible sites that might qualify?

Mr. STANISLAUS. So are you asking how we evaluate?

Mr. BUCSHON. Yes.

Mr. STANISLAUS. We publicly announce grant criteria up front. It looks at the local circumstance, the capacity of the recipient—of the grant applicants, and we do a national competition and we score that, and that is how we do that.

Mr. BUCSHON. That seems pretty straightforward. I yield back. Thank you, Mr. Chairman.

Mr. MCKINLEY. Thank you. The prerogative. I have one follow-up with one more question to you, if I could, before I turn it over to the ranking member.

The brownfield law requires that 25 percent of the funds appropriated to EPA for brownfield sites, they are to be used to characterize, assess and remediate petroleum brownfields. Did you think this petroleum set-aside is still necessary?

Mr. STANISLAUS. No.

Mr. MCKINLEY. Thank you.

Now I recognize the ranking member of the full committee, Mr. Pallone from New Jersey.

Mr. PALLONE. Thank you, Mr. Chairman. The Brownfields Program, as you said, Mr. Stanislaus, has been a success. The committee has been able to leverage Federal and State dollars in cleanup and revitalize contaminated sites. However, brownfields cleanups are becoming more complicated, resulting increased assessment and cleanup costs. So I wanted to ask you: Initially, would an increase in the cap on individual grants be helpful to communities trying to cleanup these more complicated sites?

Mr. STANISLAUS. Yes. It's something that—I think a modest increase makes sense. I am concerned that without an increase in appropriations, that we will actually have the total number of communities being reduced. So, I will leave it at that.

Mr. PALLONE. Yes. Well, that serves my second question, because these grants are in high demand, and because of insufficient funding, many applications go unfunded. So if you increase the cap with current funding letters—current funding levels, that is going to mean fewer applications being funded, correct?

Mr. STANISLAUS. That is right.

Mr. PALLONE. So, therefore, a simultaneous increase in overall funding and an increased cap for individual grants would obviously be the most useful to continue success of the program?

Mr. STANISLAUS. Yes, and I should note in the President's budget, he has called for a bump-up in brownfield resources.

Mr. PALLONE. Now, stakeholders have also mentioned that greater flexibility in the use of grants would be beneficial. One such example is EPA's multipurpose pilot grants, which allow recipients to use the funds for a range of brownfield activities. And one of the potential benefits to this grant structure is expediting the time-frame between assessment and cleanup. So let me just ask you about that. To date, how many multipurpose grants have been awarded by the EPA?

Mr. STANISLAUS. Let me get back to you with a number, but my overall experience has been, which we were surprised by, is actually, where a grant recipient identified a single site for assessment and cleanup has actually been a bit slower than we anticipated. So we are looking at providing a grant, a multipurpose grant for multiple sites. Some sites may need assessment, some sites may need cleanup. So we want to continue to explore various vehicles of multipurpose grants. But we are not sure necessarily that one grant for one side for a site assessment and cleanup necessarily saves time. We are still looking at that.

Mr. PALLONE. That was my next question, if you had any preliminary data that shows that this type of grant is beneficial to developers and communities. Can you comment on that, or are you still looking into it?

Mr. STANISLAUS. I think, in principle, it would, but we just—so there are two competing issues: Would providing a grant for assessment of a cleanup on an individual site save time from two competitions? And we are finding that our data shows that that is not necessarily the case. We also have this issue of having money that

is out there—we are fairly obligated if money is out there for too long to take it back. So there is tension that we have to resolve.

Mr. PALLONE. OK. Before my time is up, I wanted to turn to administrative costs because currently, brownfields grants funds cannot be used for administrative costs. However, allowing recipients to use a portion of EPA funds to offset some of the administrative burden could help communities, particularly rural and financially disadvantaged communities. Did you want to comment on that?

Mr. STANISLAUS. Yes, I think we have heard repeatedly from grant recipients, particularly smaller communities that it is a burden. I think that is a sensible approach to figure out a way of not burdening them with the administrative costs.

Mr. PALLONE. OK. Well, I am encouraged to hear about the success of the program, and EPA's commitment to cleaning up the contaminated sites. As I said, look forward to working with the EPA to help strengthen the program and ensure that States and local communities receive adequate resources to administer and support these cleanup efforts. I mean, obviously in my State, both Superfund and brownfields have been tremendously helpful. I can point to so many cases in my district where they have not only cleaned up sites, but revitalized the economy and, you know, created jobs and the list goes on and on. So, again, Mr. Chairman, I hope that we can work on a bill together that would reauthorize this and I yield back. Thank you.

Mr. MCKINLEY. Thank you. I now recognize the vice chairman of the subcommittee, Mr. Harper from Mississippi, for 5 minutes.

Mr. HARPER. Thank you. Mr. Stanislaus, it is good to have you back.

Mr. STANISLAUS. Great to be back.

Mr. HARPER. You are a regular here, so thank you very much for your insight. At a hearing on the Brownfields Program held at the Transportation and Infrastructure Committee, you explained that the Brownfields Program is a good model of leveraging. Can you explain to us what that means and explain why that is the case and how EPA maximizes leveraging Federal dollars?

Mr. STANISLAUS. Sure. One from a transactional perspective, being able to reduce risk early through site assessment allows the unknown of total cost to be a known, so that that can be quantified for underwriting and bringing private resources to the table, that is one thing that we do.

Mr. HARPER. OK.

Mr. STANISLAUS. The second is, we have been pushing the idea of preference and priority, which is, that if the community has done the hard work and the planning, they should get some benefit, for example, DOT TIGER grants recognizes upfront planning. So that is some of the things we have been doing.

Mr. HARPER. Thank you. Will expanding the eligibility for what entities can receive brownfields funds decrease the number of grants awarded?

Mr. STANISLAUS. Expanding the eligibility? Can you expand?

Mr. HARPER. Basically, if we expand the eligibility for what entities can receive these, how—what impact, if any, do you think that would have on the overall leveraging of Federal dollars?

Mr. STANISLAUS. Well, if I understand your question, so, you know, we go to the national competition, and we pick the most qualified, not just the success of the program—if your question is about increasing the size of the grant—is that your question?

Mr. HARPER. Or, for instance, expanding it to include nonprofits, what waterfront grants, those type things.

Mr. STANISLAUS. Yes. I think not-for-profits, there are benefits, particularly for smaller communities, which really rely on not-for-profits on economic development and housing development work. So the natural extension provided the capacity gap that some smaller communities may not have, so we do view that as a positive.

In terms of an upfront determination of waterfront grants, we actually think there are unintended consequences of dividing grants too early in the process, as opposed to having the grant applicants demonstrate who are the best qualified.

Mr. HARPER. Do you think that grants and nonprofits organizations require more project management resources?

Mr. STANISLAUS. More project management resources? Clearly, be it a local government or a potential not-for-profit, they need to demonstrate capability and capacity.

Mr. HARPER. Sure. There is a bill pending in the Senate right now on brownfields, Senate bill No. 1479. Some of the changes in that bill require EPA to consider certain types of grants, for example, those waterfront grants and clean energy grants. Rather than directing EPA to consider certain sites for brownfields funding. Shouldn't local communities decide the best in use for redevelopment project?

Mr. STANISLAUS. Absolutely. I have gone on record and said that before.

Mr. HARPER. Does EPA already have authority to issue grants to these types of projects?

Mr. STANISLAUS. Absolutely.

Mr. HARPER. Does EPA support the concept of multipurpose grants? Are there problems associated with awarding grants funding for both assessment and cleanup activities simultaneously under the same grant?

Mr. STANISLAUS. Yes, we have a grant cycle right now. I think we were looking at how do we provide even more flexibility. We don't believe we need statutory authority for that, though.

Mr. HARPER. Does EPA support the broadening of grant eligibility so that governmental entities that took titles of the property before the date of the brownfields law in 2002, but which did not cause or contribute to the contamination, are they eligible to receive brownfields grants funding?

Mr. STANISLAUS. Yes, I think that makes sense, municipalities have raised that as an impediment to redeveloping their downtowns.

Mr. HARPER. How would EPA ensure that these governmental entities did not cause or contribute to the contamination?

Mr. STANISLAUS. Well, I think in the same way that we do now, we actually do a record search, and we require a demonstration of their linkage to the property.

Mr. HARPER. And would these governmental entities have to demonstrate that they conducted the appropriate due diligence or appropriate inquiry?

Mr. STANISLAUS. That is right.

Mr. HARPER. With that, I will yield back.

Mr. MCKINLEY. Thank you. And now we recognize for 5 minutes the Congresswoman from California, Ms. Capps.

Mrs. CAPPS. Thank you, Mr. Chairman McKinley and Ranking Member Tonko, for holding this hearing, and thank you, Assistant Administrator Stanislaus, for your testimony today.

The Brownfields Program has been an important one for cleaning up contaminated properties, reducing exposure to harmful contaminants, and revitalizing our communities. My district's experience with the Brownfields Program goes way back to the awarding of initial pilot redevelopment projects in the beginning. As you know, I represent a district in California that is comprised of many coastal communities. As you can imagine, keeping these waterfront properties free of contamination is not only a concern for public health and the environment, it is also an economic concern.

My first question to you, Mr. Stanislaus, do coastal communities have unique challenges when cleaning up waterfront—brownfields property?

Mr. STANISLAUS. Unique challenges? I think waterfront property, I think, vary depending on the kind of contaminates. I have to think there are some unique opportunities given their waterfront and the transportation access, also.

Mrs. CAPPS. So are there tools or resources that are available to communities who have these particular, and maybe unique challenges in their brownfields?

Mr. STANISLAUS. Yes, I would say the Area-Wide Planning program is one of the grant programs, because waterfronts tend to be pretty large in terms of the opportunity, so area-wide planning allows infrastructure studies and market studies.

Mrs. CAPPS. OK. What kind of public outreach does the EPA engage in to make sure that residents, my constituents are more informed about brownfields and the availability of remediation process?

Mr. STANISLAUS. I am sorry. Can you say that again?

Mrs. CAPPS. Well, are there public outreach programs that you are engaged in that would ensure that the residents, my constituents and various people, become more informed about what brownfields are and that there is remediation, a process available?

Mr. STANISLAUS. Sure. So we provide a grant to entities around the country, it is to do that direct outreach in technical assistance to communities in addition to what we do ourselves. In terms of the cleanup itself, the cleanup is administered by State cleanup programs, and we separately fund States and tribes for that.

Mrs. CAPPS. OK. I am pleased to hear that you are engaged in this, because I think that some people don't even know that they are sitting on top of a brownfield, or they are associated with it that might be eligible for some special benefits.

Another issue I would like to talk about is the sustainable reuse of brownfield sites. I think it is very important communities are able to revitalize these underused, or abandoned sites, in a sustain-

able way. So are there ways, and what are they, that you have promoted sustainable reuse of brownfields, such as green building stormwater management, and how have these sustainable uses benefited communities?

Mr. STANISLAUS. Yes, I would begin with, I think, brownfields by itself is very sustainable because they are in kind of population centers and lower air emissions and lower water kind of impact. In terms of promoting some of the items you suggested, we actually highlight some of the best practices used at all the sites, like green infrastructure, for example. And there have been a few sites, like in Monroe, Michigan, where there is actually an assembly plant for wind energy.

Mrs. CAPPS. OK. The reuse.

Mr. STANISLAUS. Yes.

Mrs. CAPPS. I appreciate your testimony here today in answering questions, especially as we deal with the effects of climate change. It is so important that we think about sustainability of development projects. I am happy to hear that EPA has been working to promote sustainability in the Brownfields Program while, at the same time, protecting public health of course and revitalizing our communities.

With that, Mr. Chairman, I am prepared to yield back, or yield to someone else.

Mr. MCKINLEY. Thank you. Not seeing any more on this side, the enlightened side of the argument. We will move to the other side, the hopeful side.

Mr. MCNERNEY. Idealistic.

Mr. MCKINLEY. Five minutes to Mr. McNerney from California.

Mr. MCNERNEY. I appreciate the hearing.

Mr. Stanislaus, would it be fair to say that every single congressional district in this country has real estate that would qualify for the Brownfields Program?

Mr. STANISLAUS. I can't imagine that is not the case.

Mr. MCNERNEY. That is right. So, Mr. Chairman, I think we have a good case that we could make to our colleagues to get this program funded.

Moving on, I am really interested in your leverage state. You said you can leverage sometimes 1 to 18. That is phenomenal.

Mr. STANISLAUS. Yes.

Mr. MCNERNEY. How do you do that?

Mr. STANISLAUS. Well, I think it is the sweet spot of Government. So, I think that it provides the upfront money to deal with the uncertainties. And when you deal with the uncertainties, more private capital and even public economic development research can be brought to the table.

Mr. MCNERNEY. Well, you also mentioned you want to preserve the competitive process, but there is probably a lot of potential projects that don't have the resources to put together a quality proposal. Are there means within the program to help some of these communities?

Mr. STANISLAUS. Yes. So we fund—because we cannot directly assist communities to write a grant application that we are going to have to judge, so we fund entities around the country to provide assistance to actually help in preparing those applications.

Mr. MCNERNEY. Very good.

Mr. STANISLAUS. And identifying how they should best put together a competitive application.

Mr. MCNERNEY. Is that a successful operation?

Mr. STANISLAUS. Oh, it is very successful. I can give you a list of what each of these recipients have been doing.

Mr. MCNERNEY. Very good. City of Stockton, California, has been my district, and it has benefited from the Brownfields Program significantly, seed money, eventually lead the revitalization, the seed money you talked about, properties along the Stockton Deepwater channel.

I understand, also, that the EPA has relatively new repowering America's land initiative which focuses on renewable energy, and it looks like there is about 150 programs that have gone through that. What is the advantage for a renewable energy business to use that program?

Mr. STANISLAUS. Well, it makes all the sense in the world where you have contaminant problems—particularly a contaminated property where other kinds of redevelopment are more challenging. What we have done is we partnered with the Department of Energy Renewable Energy Laboratory and we mapped contaminated sites around the country for wind energy opportunity and portable tech energy opportunity. And also, these happened to be in proximity to transmission line corridors as well. So we see it is a great fit between renewable energy and a use of a property that may not otherwise be used for other kinds of uses.

Mr. MCNERNEY. Very good. Mr. Chairman, I am going to yield back.

Mr. MCKINLEY. Thank you very much. Now we are staying on that side of the aisle. We will go down for the next 5 minutes of questioning, Mr. Green from Texas.

Mr. GREEN. Thank you, Mr. Chairman and our witness, for being here today. I represent an area in Houston, Harris County, Texas. We have a number of former industrial sites. A very urban area that grants through Brownfields Programs have been instrumental in transforming some of those underutilized and abandoned sites in the productive properties in the community. However, many small and disadvantaged communities don't have the capacity to undertake these revitalization projects like a city like Houston can do.

Mr. Stanislaus, in your testimony, you mentioned EPA data shows that funding and technical assistance are reaching small and disadvantaged communities. How much of this assistance is reaching the disadvantaged community? Do you have any examples of locations where EPA has worked with those smaller, disadvantaged communities?

Mr. STANISLAUS. Yes, I could follow up with specific examples after this hearing. But I think we have done a pretty good job of trying to make sure that all communities participate in the grant program. But in addition to the grant program, what many mayors or town managers of smaller communities say is, in some case providing the ability to move that one property. And so, we have contract assistants to assess that one property that has been pretty successful. You also have a technical assistance program that I think these communities have found really valuable.

Mr. GREEN. What type of assistance—could you describe some of the assistance supported provided by EPA under the Brownfields Program?

Mr. STANISLAUS. So some of the technical assistance, it includes, in some cases, actually doing a site assessment, understanding the potential contaminants at a site. In other cases, through the TAB program, we fund recipients to help communities understand the requirements of our grant program, kind of Brownfields 101, understand transactions and how to actually go from a vacant, under-utilized property and walk them through each step of the transaction and redevelopment.

Mr. GREEN. Well, I have a great example in my community. Again, it is a very urban area, we had a location for our city bus barn for the last 50 years up until about 20 years ago. And the lead contamination in that soil was so bad, but it was remediated. In fact, it was left open, a very urban area with a great deal of green space that nobody could go on. But after a period of time now, it is actually a community college, covered up the soil, and it is very viable in a very urban area, so I appreciate that.

The Area Wide Grant program, the AWP, I understand AWP grants have been successful in providing funds to support communities with the developing plans identifying implementation strategies for area wide revitalization. How has this program been successful in revitalizing economically distressed communities?

Mr. STANISLAUS. Yes, what it does, particularly for economically distressed communities, it allows communities to go beyond the fence line. Look at the state of infrastructure, look at the infrastructure investment needs, look at the current market and future market conditions, look at implementing resources that are available at the Federal, State and local government. And again, to recite the stat I gave out earlier, allot \$12 million to EPA recipients, Area-Wide Planning recipients, there is leveraged \$354 million in other resources for redevelopment.

Mr. GREEN. And how do partnerships with nonprofits and other organizations help ensure successful remediation? In my case, it is mostly with local governments.

Mr. STANISLAUS. I think it is critical, particularly in smaller communities that need that capacity assistance. Not-for-profits could be a local economic development entity, could be a local housing development entity, a local industrial development entity, which are not-for-profits to enable the whole process to move forward.

Mr. GREEN. OK. There are concerns that some sites are cleaned up and new developments may no longer take into account the needs of long-time residents of the area, particularly affordable housing with an economically distressed community. I think it is an important consideration for revitalization should how these project serve communities. In what ways is EPA working to encourage community engagement to ensure that the needs of the residents are met?

Mr. STANISLAUS. Sure. At its heart, the Area Wide Planning program is designed to enable community vision, inclusion of local residents who have been fighting, for many times years, around that particular site. We have also invested a lot in the tools for equitable development. How do we make sure that, for example, af-

fordable housing, and generally the needs of job creation or housing is part of the visioning of a brownfield redevelopment scenario.

Mr. GREEN. Thank you, Mr. Chairman. I yield back.

Mr. MCKINLEY. I thank you.

Now they called the votes. Thank you very much for your testimony, Mr. Stanislaus.

Mr. STANISLAUS. Are you telling me to leave? Is that what you are saying?

Mr. MCKINLEY. But you will be back. You are a fixture around here. Wasn't it nice no one had to yell at you today?

So the second panel, and then we are going to break for votes and come back after that. So if I could have the five panelists for the second panel, if they could take their seats, please.

In respect for the time, because the clock is ticking over there on the call, we get 10 minutes left to go. We have Meade Anderson, Brownfields Program Manager with the Virginia Department of Environmental Quality, which he is testifying on behalf of the Association of State and Territorial Solid Waste Management Officials. We have Christian Bollwage, who is the mayor of the city of Elizabeth, New Jersey; Clark Henry is the owner of the CIII Associates, LLC; Amy Romig, partner at Plews, Shadley, Racher & Braun. And Veronica Eady, Vice President and Director of the Conservation Law Foundation.

If it's all right with you if we just get it started and—

Mr. SHIMKUS. No, just go vote.

Mr. MCKINLEY. Then we will come back. Hold tight. Thank you very much.

[Recess.]

Mr. SHIMKUS. I am going to call the hearing to order.

Again, thank you for your patience. Fly-out day. This subcommittee, we have to get the rooms—

Come on in, Mayor.

We want to get the rooms when we get them because of these important issues. So patience. We will have members coming and going. But it was also the last vote on the floor, so a lot of them are getting back to their districts. So your testimony is still important, and we appreciate you being here. So I will just introduce folks—

Unless, Mr. Schrader, do you want to say anything, since you weren't here for opening statements? Do you want to—

Mr. SCHRADER. No, Mr. Chair. And I apologize for not being here earlier. And I had a chance to converse with, you know, some of our participants. I really appreciate what they are doing. It is a timely issue and a big issue of my State where we have a Superfund site that we are trying to get to resolution on. So this is a great hearing, sir.

Mr. SHIMKUS. And I look forward to visiting that site sometime soon.

Mr. SCHRADER. Yep.

Mr. SHIMKUS. So with that, I will just do the introductions.

Each person individually, you will do your 5-minute opening statement. Your full statement is submitted for the record. And then we will go to questions afterwards based upon the testimony.

So I would like to first start with Mr. Meade Anderson, Brownfields Program Manager, Virginia Department of Environmental Quality, on behalf of the Association of State and Territorial Solid Waste Management Officials.

Sir, welcome. And you are recognized for 5 minutes.

**STATEMENTS OF J. MEADE R. ANDERSON, CHAIR,  
BROWNFIELDS FOCUS GROUP, ASSOCIATION OF STATE AND  
TERRITORIAL SOLID WASTE MANAGEMENT OFFICIALS; J.  
CHRISTIAN BOLLWAGE, MAYOR, CITY OF ELIZABETH, NEW  
JERSEY, ON BEHALF OF THE U.S. CONFERENCE OF MAYORS;  
CLARK HENRY, OWNER, CIII ASSOCIATES, LLC; AMY E.  
ROMIG, PARTNER, PLEWS SHADLEY RACHER & BRAUN, LLP;  
VERONICA EADY, VICE PRESIDENT AND MASSACHUSETTS  
DIRECTOR, CONSERVATION LAW FOUNDATION**

**STATEMENT OF J. MEADE R. ANDERSON**

Mr. ANDERSON. Good morning, Chairman Shimkus and Ranking Member Tonko, members of the subcommittee.

My name is Meade Anderson. I am chair of the Brownfields Focus Group with the Association of State and Territorial Solid Waste Management Officials, ASTSWMO. I am here today to testify on behalf of ASTSWMO.

ASTSWMO is an association representing waste management and remediation programs of 50 States, five Territories, and the District of Columbia. Our membership includes State program experts with individual responsibility for the regulation or management of waste, hazardous substances, including remediation tanks, materials management, and environmental sustainability programs.

I would like to preface my remarks with commenting that our organization does enjoy a positive working relationship with the U.S. EPA. Our collaborative efforts and problem-solving approaches to brownfields issues with the EPA Office of Brownfields and Land Revitalization should not be underestimated. I think what you are going to hear from me today is almost an echo of everything that we have heard earlier, and maybe a little bit more.

ASTSWMO is a strong supporter of the Brownfields Program. For the past 14 years, this program has contributed greatly to the economic development and revitalization of the country. State and territorial programs provide significant support to the localities, such as small and rural communities that apply for grants. These programs also help ensure that funding is leveraged to the maximum extent possible to assist in the revitalization of these sites. The vast majority of these cleanups are managed under the State voluntary cleanup programs, which are typically supplemented by the 128(a) brownfields funds that we are going to be talking about today.

Some of the benefits include providing funds for complete environmental assessments of properties, supporting local community officials in the preparation of grant applications that you have heard earlier, providing workshops for the organizations that are in these districts, and meeting with community officials. Just like a couple of weeks ago, I was meeting with a town that has five em-

ployees. They don't have the ability to have a brownfields expert on staff and supporting the voluntary cleanup programs that I have mentioned that provide the foundation for setting the remediation goals and the institutional controls to make sure the properties are safe for reuse.

Since the brownfields law's beginning, 128(a) fundings have been provided to the States and—States, territories, and tribes with the national funding level at just under \$50 million for the last 14 years, whereas the number of applicants has continued to more than double. In 2003, 80 States, territories, and tribes received the funding of \$49.4 million. By 2016, 164 entities requested funding, including 50 States, four territories, the District of Columbia, 109 tribes, eight of which were new applicants. The awards in 2003 averaged \$618,000. However, by fiscal year 2016, the average award had dropped to approximately \$293,000, less than half what had been awarded when the program started.

As you have heard today, we are now facing more challenging sites than ever. Over the last 10 years, we were able to clean up many of the more easily to clean up sites and revitalize them, bringing benefits to the States and the communities. However, what remains is more challenging. And the redevelopment has been hampered by the complex issues of the contamination and the challenges of the community as a whole.

These properties are financially upside down due to suspected environmental contamination. Yet many of these sites are situated in key locations in our small communities, cities, and towns. The more challenging sites require a unique collaborative approach of the stakeholders working in partnership with the community, local, State, Federal governmental organizations, business partners, NGOs, and individuals from the community itself. The State's Brownfields Program plays a significant role in ensuring these sites are cleaned up to standards that are safe for their reuse.

Earlier we talked about the leveraging that goes on, and the University of Delaware has published two well-respected studies. The Economic Impact of Delaware's Economy: The Brownfields Program is one of them, that you get this \$17.50 return on a dollar's investment that goes into these brownfield sites. These two documents are referenced in my written testimony.

To summarize, ASTSWMO believes in a robust Brownfields Program at all levels of Government working in concert with the private sector, is essential for the Nation's environmental, economic, and social health. And without adequate funding for the State, territorial, and tribal brownfield and voluntary cleanup programs, brownfield goals cannot be achieved. Where the current level of funding is inadequate, we want to ensure that it is at least protected to a minimum.

Thank you for the opportunity to testify. I would be pleased to answer any questions.

[The statement of Mr. Anderson follows:]



**U.S. House of Representatives  
Committee on Energy and Commerce  
Subcommittee on Environment and the Economy**

**Hearing**

**"EPA's Brownfields Program: Empowering Cleanup and Encouraging Economic  
Redevelopment"**

**April 21, 2016**

**Testimony of  
J. Meade R. Anderson, CPG  
On Behalf of the  
Association of State and Territorial Solid Waste Management Officials**

**Main Points**

- Since the Brownfields law's beginnings in 2002, 128(a) funding has been provided to States, Territories and Tribes with the national funding level remaining at just under \$50 million for over 14 years, whereas the number of applicants has continued to rise to more than double. The awards in FY2003 averaged \$618,000, however, by FY2016 the average award had dropped to approximately \$293,000, nearly half of what had been awarded in FY2003.
- Funding has been used to assist local government, community officials and others to assist with technical support, environmental assessments, and recommendations.
- Funding supports Voluntary Cleanup Programs (VCP), which provide the foundation for setting remediation goals and institutional controls.
- The remaining brownfield sites are the more challenging sites whose redevelopment may be hampered by complex issues such as contamination and challenges related to the community as a whole. These more challenging sites require a unique collaborative approach of stakeholders working in partnership with the community, local, State, and federal governmental organizations, business partners, non-governmental organizations (NGOs), and individuals from the community itself.
- The University of Delaware's economic study found that every nominal dollar spent through the brownfield program generates a \$17.50 return on the State's initial investment providing further evidence of the vital role brownfields funding plays in the States.

Good morning Chairman Shimkus, Ranking Member Tonko, Members of the Subcommittee.

My name is Meade Anderson, and I am the Chair of the Brownfields Focus Group of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO). I am here today to testify on behalf of ASTSWMO.

ASTSWMO is an association representing the waste management and remediation programs of the 50 States, five Territories and the District of Columbia (States). Our membership includes State program experts with individual responsibility for the regulation or management of wastes and hazardous substances, including remediation, tanks, materials management and environmental sustainability programs.

I would like to preface my remarks with commenting that our organization does enjoy a positive working relationship with the U.S. Environmental Protection Agency. Our collaborative efforts and problem solving approaches to brownfield issues with the EPA Office of Brownfields and Land Revitalization should not be underestimated.

ASTSWMO is a strong supporter of the Brownfields Program. For the past fourteen years, this program has contributed greatly to the economic development and revitalization of the country. State and Territorial programs provide significant support to localities, such as small and rural communities that apply for grants, and these programs also help to ensure that the funding is leveraged to maximize revitalization of sites. The vast majority of cleanups are managed under State voluntary cleanup programs, which are typically supplemented by 128(a) funds.

Since the Brownfields law was signed in 2002, funding to States, Territories and Tribes, via the 128(a) Brownfield Grant, has been essential for States to build and maintain successful State

brownfield programs. The funding that States receive each year provides an incredible number of benefits to local units of government, corporations, and other organizations, who oversee the day-to-day cleanup and redevelopment of blighted, underutilized, and contaminated properties.

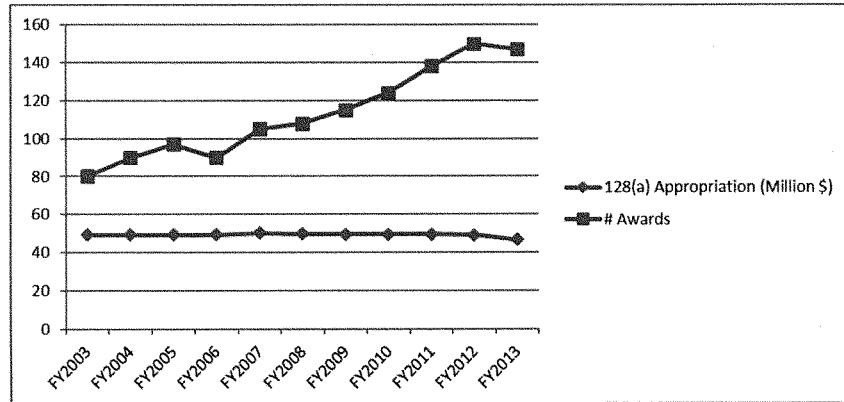
Some of these benefits include:

- Providing funds to complete environmental assessments of properties to meet all appropriate inquiry (AAI), as well as Phase II sampling and asbestos and lead inspections and, in some cases, ecological assessments, as needed;
- Supporting local community officials in the preparation of grant applications for Brownfield assessments, cleanups or revolving loan funds;
- Providing workshops for organizations, communities and others in order to educate them about the many Brownfield issues and the incentives that are available at the State and Federal level;
- Meeting with community officials and others to assist them in working through assessment and cleanup of Brownfield properties, as well as providing much needed technical support and recommendations; and
- Supporting Voluntary Cleanup Programs (VCP), which provide the foundation for setting remediation goals and institutional controls.

Unlike many other environmental programs which began at the Federal level, with States taking over authority to run various aspects, States are primarily responsible for the development and maintenance of Brownfields cleanup and redevelopment programs. States have developed their own, unique State-specific statutes, rules and regulations to govern voluntary cleanup of

contaminated sites and provide liability releases or letters of comfort to fit the needs of each individual State. However, the individual programs are sufficiently consistent to allow 25 States to execute a VCP Memorandum of Agreement (MOA) with their respective EPA Regional authorities. These MOAs promote State-Federal coordination, define general roles regarding the cleanup of sites and provide predictability and consistency for those completing a cleanup under State authority.

Since the Brownfields law's beginnings, 128(a) funding has been provided to States, Territories and Tribes with the national funding level remaining at just under \$50 million for over 14 years, whereas the number of applicants has continued to rise to more than double. The graph below illustrates the changes in funding awards, from a static pot of funding over the years. In FY2003, 80 States, Territories and Tribes received funding from a total appropriation of \$49.4 million. By FY2016, 164 entities requested funding including 50 States, 4 Territories, the District of Columbia and 109 Tribes, 8 of which were new applicants. The total funding requested in FY2016 was \$54.2 million and the total budget allocated in FY2016 will be approximately \$48.1 million. The awards in FY2003 averaged \$618,000, however, by FY2016 the average award had dropped to approximately \$293,000, nearly half of what had been awarded in FY 2003. This dramatic decrease in award amounts is directly attributable to the steadily increasing demand and competition for these essential funds.



As a result of this increasing demand on 128(a) funds, the vast majority of States are receiving less funding each Federal fiscal year. Although most States do not rely solely on 128(a) funding alone to support their Brownfields and State response programs, 128(a) funds are an essential component of each State's program. The additional funding many States utilize includes program fees, special cleanup funds and, in some cases, general revenue funds; however, most of these sources have either decreased or remained flat, particularly during the recent recession. Few of the States receive sufficient State funding to cover all program costs and to provide adequate support for EPA 104(k) Brownfield Grants. As a result, States have had to resort to cost saving measures, such as reducing staff dedicated to Brownfield functions, cutting or eliminating the amount of assistance provided to local communities and reducing the number of 128(a) funded assessments. We want to stress the importance of protecting the already stretched 128(a) funds. Adding additional applicants and program areas would threaten an already limited funding source.

Over the last 10 years many brownfield properties have been cleaned up and revitalized, bringing tremendous benefits to the States and communities. However, what remains are the more challenging sites whose redevelopment may be hampered by complex issues such as contamination and challenges related to the community as a whole. These properties are often financially upside down due to the suspected environmental contamination, yet many of these sites are situated at key locations in our small cities, towns, and communities. These more challenging sites require a unique collaborative approach of stakeholders working in partnership with the community, local, State, and federal governmental organizations, business partners, non-governmental organizations (NGOs), and individuals from the community itself. The State's Brownfields Program plays a significant role by providing technical support, recommendations, and funds the State voluntary cleanup programs to ensure sites are cleaned up to standards which are safe for the intended reuse.

The University of Delaware has published two well respected studies: the first *Economic Impact of Delaware's Economy: The Brownfields Program* dated January 5, 2010; and *Beyond Natural and Economic Impact: A Model for Social Impact Assessment of Brownfields Development Programs and a Case Study of Northeast Wilmington, Delaware* dated February 2013. The economic study found that every nominal dollar spent through the brownfield program generates a \$17.50 return on the State's initial investment. These two documents provide additional evidence of the vital role brownfields funding plays in the States.

To summarize, ASTSWMO believes a robust brownfields program, at all levels of government and working in concert with the private sector, is essential to the nation's environmental, economic and social health, and without adequate funding for State, Territorial and Tribal

Brownfield and Voluntary Cleanup Programs, Brownfield program goals cannot be achieved.

While the current funding level is inadequate, we want to ensure that it is protected at a minimum. I would like to also point out the ASTSWMO *Position Paper 128(a) "Brownfields" Grant Funding*, which was approved by the ASTSWMO Board on April 22, 2014, provides additional detail on the Association's support of brownfields funding. The position paper is provided with this testimony.

Thank you for this opportunity to offer testimony. I would be pleased to answer any questions you may have.

Mr. SHIMKUS. I thank you very much. I want to turn to the ranking member of the full committee.

Do you want to introduce the next person to testify or are you—

Mr. PALLONE. Oh, sure.

Mr. SHIMKUS. I recognize the ranking member.

Mr. PALLONE. Mayor Bollwage is the mayor of Elizabeth, which is one of the largest cities in New Jersey. And I have known him for a long time. And he has been mayor for many years. And he has been definitely a progressive mayor who has really done a lot to revitalize Elizabeth.

If you go to Elizabeth today, compared to 20 years ago, you just see all the changes that have occurred that are all positive. The major downtown area, a lot of people shopping in town. So many improvements. So—but and a lot of that—some of that has related to the Brownfields Program as well. So that is why he is here today.

Thank you, Mayor.

Mr. SHIMKUS. Thank you, Mayor. Welcome. You are recognized for 5 minutes.

#### **STATEMENT OF J. CHRISTIAN BOLLWAGE**

Mr. BOLLWAGE. Thank you, Mr. Chairman. I appreciate the opportunity to be here.

And, Ranking Member Tonko, thank you.

And, Congressman Pallone, thank you for those very kind words, and always look forward to working with you on the issues that benefit New Jersey.

As you—my name is Chris Bollwage. I am the mayor in the city of Elizabeth. I have also been the chair of the Conference of Mayors Brownfields Task Force for some 20-plus years. And since the 1990s, the U.S. Conference has made the redevelopment of brownfield properties a top priority. And all of you can understand why that has happened.

There are an estimated ½ million brownfields. And businesses were unwilling to touch these properties out of fear of liability. The congressman asked a question of the first panelist, is there a brownfield in every congressional district? And the U.S. Conference of Mayors did a study years ago that shows that every congressional district in this country has at least one brownfield incorporated.

I testified before Congress numerous times during the 1990s on the importance of this legislation. Urban sprawl has left almost every community with an abandoned site in the Nation. The brownfields law has had a very positive impact on our economy. EPA estimates over 24,000 brownfield assessments, 1,200 cleanups have been completed, 113,000 jobs created, \$22 billion leveraged.

In our last survey, 150 cities developed nearly 2,100 sites, comprising 18,000 acres. And 106 cities reported 187,000 jobs were created; 71,000 predevelopment and 116,000 permanent jobs.

And briefly, in our city, Congressman Pallone referred to it, we have Jersey Gardens Mall. It was built on a former landfill, 166 acres. Now has 2 million square feet of shopping, over 200 stores, six hotels, movie theater, with 1,700 construction jobs, 4,000 per-

manent jobs, \$2.5 million in tax revenue in the first 8 months. Would not have been done without a brownfield assessment grant.

Jersey Gardens Mall, now called a Simon mall, recently announced it is going to add 411,000 square feet with an expansion completed in 2017. We have a workforce innovation center providing job placement, soft skills training, and ESL education to residents. It also features a 4.8 megawatt super—SunPower rooftop solar system which began producing power in February of 2012, and it can now produce power for 564 homes equivalent.

The brownfields law and program has a proven track record of leveraging private sector investment and creating jobs. Unfortunately, the EPA has had to turn away a lot of highly qualified applicants, as evident by the questioning and the testimony of the first panel. The challenge that our communities face now is that many of the easy brownfield sites have been developed and what now remains are the more difficult brownfield sites, the ones that we like to call medium to dark brown brownfield sites.

The Conference of Mayors believe that some minor changes, some of the recommendations that we include for the new brownfields law: Fully funding the Brownfields Program, allowing reasonable administrative costs, clarifying eligibility of publicly owned sites acquired before 2002, removing barriers from mothballed sites, and encouraging brownfield cleanups by good Samaritans.

Other recommendations include creating a multipurpose task force grant—a multipurpose grant to make the program more flexible and market friendly. The way the program works now is if a city applies for various grants, identifies the properties where the money will be spent. The problem naturally with that scenario is the flexibility enough for real marketplace situations. A city may have multiple developers and businesses who are interested in several brownfield properties.

What cities could use is a multipurpose grant to allow them to assess multiple properties and do cleanup on the properties chosen for redevelopment. If a city has to apply for a grant, wait 6 months to a year to see if they get funding, it naturally hinders our opportunities.

Increasing cleanup grant amounts would also be beneficial. I know we differ from the EPA on this, but in the Conference's opinion, many of the easy brownfields are already being done. What is tougher are the brownfields that are more complicated due to a variety of factors, including the level of cleanup needed. And for some of the cleanup grants, we would like an increase in the amount to be \$1 million. In special circumstances, \$2 million.

I would like to thank you, Chairman, and the members of the subcommittee for the opportunity to testify. Brownfields development is a win/win for everyone involved. And the reauthorization of this law could be a top priority of this Congress.

I thank you for the opportunity. And I am available for questions, Mr. Chairman.

[The statement of Mr. Bollwage follows:]



**Written Testimony of Elizabeth Mayor J. Christian Bollwage  
 For The U.S. Conference of Mayors  
 Before the House Energy and Commerce  
 Subcommittee on Environment and the Economy  
 on EPA's Brownfields Program: Empowering Cleanup and Encouraging Economic  
 Redevelopment**

**INTRODUCTION**

My name is Chris Bollwage, I am the Mayor of Elizabeth, NJ and have served as Mayor since 1993. I'm a Trustee for The U.S. Conference of Mayors and I have served as Chair of the Brownfields Task Force for the past 20+ years. Mr. Chairman and members of the Committee, I would like to officially submit my written testimony for the record.

I am pleased to be here today to discuss EPA's brownfields program, its national and local impact, including the impact on my community, and the vital importance of reauthorizing the brownfields law with some improvements that would make the program even better.

**HISTORY**

Since the early 1990s, the Conference of Mayors made the redevelopment of brownfield properties one of its top priorities and you can understand why. At that time, the Government Accountability Office (GAO) estimated there were anywhere from 400-600,000 brownfield properties. Brownfields are defined as abandoned or underutilized property whose redevelopment is hindered due to real or perceived environmental contamination.

Developers and business owners were unwilling to touch these properties out of fear of liability. These concerns were the result of the joint, several, and strict liability provisions in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), a 1980s law more commonly known as Superfund, which made an innocent developer just as responsible for the cost of cleanup as the actual polluter. As a result, these potential businesses would develop on greenfields rather than take a risk on a brownfield property. This has contributed to urban sprawl and left abandoned sites in just about every community in the United States.

As former Chicago Mayor Richard Daley said at the time, "As a nation, we recycle aluminum, glass, and paper, but we don't recycle our most valuable commodity, our land."

The Conference of Mayors worked with Congress and the EPA to formulate legislation and a program that provided some liability relief for innocent developers as well as money to do assessments and cleanup.

I testified before the House and Senate numerous times between 1994-2001 on the importance of this legislation and I was pleased that this bill had such strong bipartisan support. The fact that the Small Business Liability and Brownfields Redevelopment Act passed in the Senate with a 99-0 vote and was put on the unanimous consent calendar in the House and then signed by President Bush, demonstrates the vast bipartisan appeal of this issue. And you can understand why - this is a win for the community, the environment, and the business community.

#### **NATIONAL IMPACT OF BROWNFIELDS**

The Brownfields Law and the EPA Program that resulted has had a very positive impact on many communities throughout the nation. According to EPA, since the inception of the program, they have awarded nearly \$600 million in assessment money which has resulted in over 24,000 brownfield assessments. They have also awarded about \$215 million for cleanup grants resulting in over 1,200 cleanups completed. This has created over 113,000 jobs and nearly \$22 billion dollars leveraged. In fact, for every EPA dollar spent leverages approximately \$18 in other investments.

However, EPA has had to turn away a lot of highly qualified applicants due to lack of funding. EPA estimates that for the past 5 years, over 1,700 requests for viable projects were not awarded money because of limited funding. EPA estimates that if they were able to provide funding to those turned away applicants, an additional 50,000 jobs would have been created along with \$12 billion of leveraged funding.

In the last Conference of Mayors survey, 84 percent of cities said that they have successfully redeveloped a brownfield site with 150 cities successfully redeveloping nearly 2,100 sites, comprising more than 18,000 acres of land. And, at that time, there were over 1,200 sites comprising of another 15,000 acres that were in the process of being redeveloped. 106 cities reported that 187,000 jobs have already been created through the redevelopment of brownfield properties with 71,000 jobs in the pre-development stage and 116,000 permanent jobs.

These new developments have resulted in an increase in tax revenues at the local, state, and federal level. 62 cities reported that their actual tax revenues from redeveloped brownfields sites totaled over \$408 million with an estimate of potential revenues ranging from \$1.3 - \$3.8 billion.

And, it should be noted that in every survey that the Conference of Mayors ever conducted, the top three impediments to brownfields redevelopment were always the same-- lack of clean up funds, the need for more environmental assessments, and liability issues.

#### **BROWNFIELDS REDEVELOPMENT IN ELIZABETH**

Attached to my testimony is a summary of some of the most notable brownfield redevelopment projects in my community including our Hope VI project, the area surrounding Midtown Elizabeth Train Station, the Harbor Front Villas, but I wanted to highlight the Jersey Gardens Mall.

The Jersey Gardens Mall was built on a former landfill in 1999. Through strong private/public partnerships on the County, State and Federal level, this innovative project transformed a former brownfield into a thriving shopping experience - with more than 200 stores and a movie theater located next door.

The conversion of this former eyesore into a shopping center had numerous positive effects on the health of the neighborhood. It created new employment opportunities (1,700 construction jobs and almost 4,000 permanent jobs), assisted in the stabilization of property taxes (\$2.5 million in revenue for the City of Elizabeth in its first 8 months of operation) and continues to improve the overall quality of life within the City.

The Mall continues to flourish with business up 10% and international visits up 37%. *Jersey Gardens Mall* was renamed *The Mills at Jersey Gardens* which recently announced a 411,00-square foot expansion, which is expected to start in 2017. Improvements will include adding high-quality restaurants and top retail brands to the location.

In collaboration with Union County College, the Retail Skills Center, which has evolved into the Workforce Innovation Center, provides job placement, soft skills training and ESL education to residents - and is located right within the mall. In addition We Are One New Jersey-Union County, which is an initiative spearheaded by the County of Union, is located within *The Mills* and provides assistance to individuals as they prepare for the United States Citizenship Test.

*The Mills at Jersey Gardens* also features a 4.8-megawatt SunPower rooftop solar system. The project, which is among the largest rooftop systems in North America, broke ground in June 2011 and began producing power in February 2012. Consisting of more than 15,000 high efficiency SunPower panels, this project generates approximately the amount of power required for 564 New Jersey homes.

**WAYS TO IMPROVE THE PROGRAM**

The Brownfields Law and Program has a proven track record of leveraging private sector investment, creating jobs, and protecting the environment. The law provided some liability relief for innocent purchasers of brownfield properties and provided resources to conduct environmental assessments and cleanups. However, there is much more work to be done. As I earlier mentioned, GAO estimated there are between 400-600 thousand brownfield sites throughout the US.

The challenge that communities face now is that many of the “easy” brownfield sites have been developed and now what remains are the more difficult brownfield sites – the, what we would like to call, the medium to dark brown brownfield sites. The Conference of Mayors, working with the Brownfields Coalition, believe that with some minor changes to the Brownfields Law and Program would help spur on additional redevelopment projects and economic growth.

I would like to highlight some of the key recommendations that the Conference of Mayors believe would make a significant difference with redeveloping even more properties.

**Full Funding of the Brownfields Program** – I know budgets are tight and we are all doing more with less. However, this program has a proven track record of leveraging private sector money, putting people to work, and taking formerly contaminated properties and putting them back into productive pieces of land that increases all of our tax bases. At the current funding levels, which are far below the authorized level, EPA only funds (roughly 30 percent) of the applications that make it to headquarters. The mayors of this nation believe this is a good investment that pays for itself and not only should be fully funded at the previously authorized levels of \$250 million but, in fact, the authorized and appropriated levels should be increased.

**Creation of a Multi-Purpose Grant** – The way the program works currently is that a city applies for various grants and identifies the properties where the money will be spent. The only problem with that scenario is that this is not flexible enough for real marketplace situations. A city may have multiple developers and businesses who are interested in several brownfield properties. What many cities could use is the ability to assess a number of properties and provide cleanup grants and loans depending on which site or sites are chosen for redevelopment. It hinders that opportunity if a city has to apply for a grant and wait 6 months to a year to see if they get funding. The Conference of Mayors would like to see the establishment of a multi-purpose grant to be given to communities that have a proven track record of fully utilizing their brownfield money. We believe by giving us that flexibility will make the program even more useful.

**Increase Cleanup Grant Amounts** – As I mentioned earlier, many of the “easy” brownfield redevelopment projects are already underway or have been completed.

What we have left are brownfields that are more complicated due to the level of cleanup that is needed, market conditions, location of the site, or a combination of these factors. The Conference of Mayors would like an increase in the funding ceiling for cleanup grants to be \$1 million and in special circumstances, \$2 million. This would give some additional resources to conduct cleanup at the more contaminated sites and bring these properties back into productive use.

**Allow Reasonable Administrative Costs** - Brownfield grant recipients should be allowed to use a small portion of their grant to cover reasonable administrative costs such as rent, utilities and other costs necessary to carry out a brownfields project. As far as I know, this is the only program that prohibits administrative costs entirely. As a result, smaller communities and non-profits sometimes will not bother to even apply for these grants due to the cost burdens associated with taking a federal grant.

**Clarify Eligibility of Publicly-Owned Sites Acquired Before 2002** – The Conference of Mayors and the Brownfields Coalition believes that as long as a local government did not cause or contribute to the contamination of the property but just happened to own the property prior to 2002, when the law was enacted, they should be allowed to apply for EPA funding for that property. It took Congress nine years to pass the original law and in that time, many communities took it upon themselves to take ownership of contaminated properties so that they could potentially turn these properties around. These same communities have now found themselves ineligible to apply for any funding for those properties to assist them with their efforts.

**Remove Barriers to Local and State Governments Addressing Mothballed Sites** – The Act should exempt local and state government from CERCLA liability if the government unit (a) owns a brownfield as defined by section 101(39); (b) did not cause or contribute to contamination on the property; and (c) exercises due care with regard to any known contamination at the site.

Local governments throughout the country have long recognized the harm abandoned and underdeveloped brownfield properties can pose to their communities. Properties that lie idle because of fear of environmental contamination, unknown cleanup costs, and liability risks can cause and perpetuate neighborhood blight, with associated threats to a community's health, environment, and economic development.

Local government property acquisition authority is one of the key tools to facilitate the redevelopment of brownfields. Through voluntary sales or involuntary means including tax liens, foreclosures and the use of eminent domain, local governments can take control of brownfields in order to clear title, conduct site assessment, remediate environmental hazards, and otherwise prepare the property for development by the private sector or for public and community facilities.

Although property acquisition is a vital tool for facilitating the development of brownfields, many local governments have been dissuaded by fears of environmental liability.

**Encouraging Brownfield Cleanups by Good Samaritans** – The Act should provide an owner-operator exemption from CERCLA liability for non-liable parties that take cleanup action or contribute funding or other substantial support to the cleanup of a brownfield, in conformance with a federal or state cleanup program, but do not take ownership of that site. Groups such as Ducks or Trout Unlimited have wanted to clean up properties and restore them to their natural habitat but because they have no protection under the law, they could be held as liable as the person who polluted the property. We need more, not less, people and organizations to help clean up these sites.

**Closing**

I wish to thank the subcommittee for having me testify today. Brownfields redevelopment is a win-win for everyone involved. It creates jobs, it cleans up the environment, and it's pro-business and pro-community. The reauthorization of this law should be a top priority for this Congress and I urge you to pass a reauthorization bill. Thank you again for this opportunity.

**Attachment**  
**City of Elizabeth - Brownfield Summary**

***I. The Mills at Jersey Gardens***

Within the City of Elizabeth, the *Jersey Gardens Mall* was built upon a former landfill in 1999. Through strong private/public partnerships on the County, State and Federal level, this innovative project transformed a former brownfield into a thriving shopping experience - with more than 200 stores and an AMC Loews movie theater located next door.

Conveniently located off Exit 13A of the New Jersey Turnpike, the conversion of this former eyesore into a shopping center had numerous positive effects on the health of the neighborhood. It created new employment opportunities, assisted in the stabilization of property taxes through a new tax rateable and continues to improve the overall quality of life within the City.

*Jersey Gardens Mall* became *The Outlet Collection - Jersey Gardens* and was renamed *The Mills at Jersey Gardens* when it was acquired by Simon Malls in January 2015. *The Mills* has announced a 411,00-square foot expansion, which is expected to start in 2016 and be completed in 2018. Improvements will include adding high-quality restaurants and top retail brands to the location.

The Mall continues to flourish after another successful year, with business up 10% and international visits up 37% - from top markets including Brazil, Germany and Israel.

In collaboration with Union County College, the Retail Skills Center, which has evolved into the Workforce Innovation Center, provides job placement, soft skills training and ESL education to residents - and is located right within the *The Mills at Jersey Gardens*. In addition We Are One New Jersey-Union County, which is an initiative spearheaded by the County of Union, is located within *The Mills* and provides assistance to individuals as they prepare for the United States Citizenship Test.

*The Mills at Jersey Gardens* also features a 4.8-megawatt SunPower rooftop solar system. The project, which is among the largest rooftop systems in North America, broke ground in June 2011 and began producing power in February 2012. Consisting of more than 15,000 high efficiency SunPower panels, this project generates approximately the amount of power required for 564 New Jersey homes.

Adjacent to the Mall is an eight-story Embassy Suites Hotel with 82 rooms and an 87,200 sq. ft. restaurant. Additional hotels at this site include: Country Inn and Suites by Carlson, Elizabeth Courtyard by Marriott and Residence Inn by Marriott Newark/Elizabeth Liberty International Airport. Restaurants such as Ruby Tuesday and IHOP are also available on the property.

The IKEA Furniture store, which is also easily accessible from Exit 13A of the New Jersey Turnpike, also completed a \$40 million renovation, which included a reconfiguration of its operations and an increase in showroom space to help meet the growth of its business.

***2. The HOPE VI Project***

Before Jersey Gardens, City Officials had embarked upon an impressive renewal effort in the City's oldest neighborhood, which was located adjacent to the transformed landfill. Economic development expansion and citywide revitalization efforts inspired the removal of public housing structures and the implementation of new housing initiatives.

Hundreds of affordable housing units were completed, with a portion on former brownfields. The tremendously successful federally funded HOPE VI program assisted in the removal of public housing complexes and replaced them with new townhouses in Elizabethport. Individuals previously residing in the old, dilapidated facilities had the unique opportunity to become homeowners. Living in a new community setting not only physically transported these low to moderate income residents, it transformed their quality of life.

Removing the stigma of public housing, the HOPE VI program assisted in instilling a sense of pride, self-sufficiency and homeownership in a residential neighborhood that included beautiful landscaping and open space. Through this program, hundreds of residents also participated in services including but not limited to: resume and interviewing workshops, job training and placement, computer classes, youth oriented programs, child care programs, business development and health care. Identifying neighborhood potential and implementing a strong vision made critical initiatives such as HOPE VI possible.

The HOPE VI program is administered by the Housing Authority of the City of Elizabeth through the United States Department of Housing and Urban Development.

### ***3. Area Surrounding Midtown Elizabeth Train Station***

The Midtown Train Station is a designated New Jersey Transit Village and is located among brownfields. The City is seeking a NJ DEP Brownfield Development Area (BDA) designation for the area within and around the Midtown Redevelopment Area, which includes a 20-acres surrounding the Midtown Train Station. The Midtown Elizabeth Train Station is already a New Jersey Department of Transportation designated Transit Village.

NJ TRANSIT has committed \$55 million dollars for the design and reconstruction of the Elizabeth Midtown Train Station, which will include a new two-story station building with a street-level ticket office, waiting room as well as new office and retail space. The location will also feature new, extended high-level train platforms that will accommodate longer, 12-car trains and the platforms will feature covered, heated and air conditioned waiting areas for its users.

The Station will have new elevators and stairs, upgraded passenger information and security systems. The westbound plaza entrance will be highlighted by a marquee facade, new stairs and new vendor space. NJ TRANSIT and the City of Elizabeth is working together to incorporate art into the design of the station. The project will be funded through a combination of state and federal sources.

Enhancements to the Midtown Elizabeth Train Station are not limited to the current facility. These additional brownfield properties surrounding the Station have also begun the revitalization process. New housing, retail and offices will complement a modern Train Station and provide the services residents, commuters and visitors expect and deserve.

***4. Harbor Front Villas***

The City of Elizabeth's Waterfront underwent a transformation, creating luxury housing on a former brownfield site. Harbor Front Villas is a \$15 million townhouse development that features market-rate units, which would attract the most demanding buyer.

Homeownership coupled with luxurious amenities and a Waterfront view is what Harbor Front Villas offers its clientele. Located minutes away from Exit 13A off the New Jersey Turnpike, the site is easily accessible from major roadways and is minutes away from New York. From master bathrooms, cathedral ceilings and fireplaces to granite entrance halls, central air conditioning, terraces and private parking, this new townhouse community provides the comforts of home with a beautiful view on the water.

With wide market appeal, Harbor Front Villas offer an exciting alternative to individuals who work in the tri-state area and are looking to immerse themselves in the beauty, culture and community of an urban municipality.

Mr. SHIMKUS. Thank you, Mayor. And it is great to have you.

I would now like to turn to Mr. Clark Henry, owner of CIII Associates. Again, your full testimony is already in the record. You have 5 minutes. Welcome.

#### **STATEMENT OF CLARK HENRY**

Mr. HENRY. Great. Thank you very much, Chair Shimkus and Ranking Member Tonko, for having me here. It is an honor to speak to you as well with both the people to my left and right. It is an honor to share this table.

I have been working on brownfield redevelopment for the past 15-plus years, both as a public service—public servant working for the city of Portland, Oregon managing the Brownfields Program, as well as a consultant working with municipalities very small from the Village of Sutherland, Nebraska to the City of Boston, Massachusetts, as well as community-based organizations, developers, and property owners all over the country.

I am intimately aware of working with the Brownfields Program and the power that it has. My overwhelming support for this program and the reauthorization is demonstrated in the success that we have had in Portland and across the country. I have administered over \$2 million of EPA assessment in brownfield cleanup grants, worked very closely with the job training grantees, as well as revolving loan fund recipients; all of which have leveraged multifamily housing, additional commercial developments, light industrial developments, and job creation.

I lightheartedly refer to the brownfield effect. With the EPA Brownfields Program involved, is we have brownfield jujitsu. We turn what are liabilities into assets. We kind of reverse the negative effect that they have on our communities environmentally and economically at the same time. The theme here too is how these grants help local municipalities and the Federal Government serve as really strong partners for private sector redevelopment.

The Brownfields Program has been, in my observations, nationally the best model of how this has been working. I do, as well as previous testimony, have some recommendations how we could further refine some of this. The area-wide planning program that Administrator Stanislaus brought to the EPA from New York and is administering in the EPA now, I believe, should be made a permanent part of the Brownfields Program. It is really a response to how we put properties and entire districts and corridors in the pipeline for development.

It never shocks me when you start planning for a brownfield property that no one has been interested in for decades, you start planning for it, and everybody wants it. So perception here on both sides is really important.

The nonprofit eligibility too, for me, I think is a very important addition. They are not only more than capable of administering these grants; they are really essential private sector partners, particularly in the creation of workforce housing.

I do believe that allowing some small portion of administrative costs is a very positive change under the grant. Though I do believe that local municipalities should bear the burden of operating programs, but when we allow them—when we allow some administra-

tive costs, we go from administering a grant to running a program. And in my experience with the city of Portland and having the time to broker relationships between developers and property owners and advocate for and help projects get through regulatory process at the State level, the outcomes are very compelling, and you speed things up and you make things happen that otherwise wouldn't.

I am a strong proponent for renewable energy on these facilities. Not necessarily allocating specific resources for that, but I really do believe that they provide substantial benefit.

I think we do need to clarify the liability for public municipalities, not just making them available—or eligible for ownership after 2002, but under circle of liability, involuntary acquisition, such as through tax foreclosure, they are protected under statute, but for voluntary they are not. And I believe that widening that would really help municipalities take on projects that they are hesitant to now.

The multipurpose grants allowing us to move from assessment to cleanup, from my perspective, I was dying for these things at the city of Portland and it would have sped some things up. Though it might not be universally applicable, I really do think it should be an option. And I would love to see the Federal tax incentive brought back that expired in 2011.

And then the last little change isn't necessarily a change to the administration or the grant program itself, but it is considering what happens after community planning processes are assessed and some cleanups are done. And exploring partnerships with these new—with new organizations and community-based organizations is really essential here. And then there are some new tools because the JOBS Act and the SEC rules allowing crowdsourcing and crowdfunding on an equity base is—has some really strong potential to actually leverage financing for a project otherwise is inaccessible.

And I conclude by really encouraging the reauthorization. And I really want to say that this is working for the environment, society, and economy together to make our—bring our municipalities stronger as well as a stronger United States. Thank you.

[The statement of Mr. Henry follows:]

**Written Testimony to the US House of Representatives Committee on Energy and Commerce 114<sup>th</sup>  
Congress; Subcommittee on Environment and the Economy**

Witness: Clark Henry (CIII Associates LLC)

First, I wanted to say thank you for hearing my testimony about the EPA Brownfields program. It is an honor to address this committee and do so alongside the other witnesses. I have been working on brownfield redevelopment for the past 15 years. I have done so as a public servant with a local municipality (City of Portland, Oregon), a consultant, and a citizen. This includes working very closely with the EPA Office of Brownfields and Land Revitalization (OBLR), local municipalities, property owners, developers, lenders, and community based organizations across the country.

As the manager of the City of Portland Oregon Brownfield program I oversaw the administration of approximately \$2 million of EPA Brownfield Assessment and Cleanup grants resulting in a cleaner environment, new jobs, increased tax revenue and reactivating once derelict land. Now as a consultant I work with municipalities, property owners, developers, and community based organizations nationally.

Where brownfields represent obstacles to making our towns and cities environmentally, economically, and culturally stronger the EPA Brownfield Program provides financial and technical resources that reverse that effect. Land that once sat contaminated and vacant now accommodates employment, housing, commercial space, industrial land, parks, public facilities, and helps stitch communities back together.

Brownfields are often mistaken as a large urban or industrial problem but this is a misperception. I have provided technical assistance and conducted brownfield area wide planning activity in very small rural communities like the Village of Sutherland, Nebraska to cities such as Boston, Massachusetts. This is a national issue that deserves attention in every congressional district

I cannot overstate the positive impact that this program has had on revitalizing properties, leveraging investment, and improving environmental quality in urban and rural communities alike. The funding made available to local municipalities is of course a greatly valued and highly effective tool used to put properties on track to redevelopment. However, when coupled with technical guidance and advocacy from the local municipalities the outcomes are even more compelling.

If there is a theme in this testimony it is to highlight ways in which the federal and local governments can best serve as partners with the private sector and facilitate land revitalization, job creation, investment and improve environmental quality. The following ideas are presented as ways in which the federal government and local governments can serve as compliment to and more closely operate at the speed of private business and investment for the mutually beneficial outcomes of a stronger economy and environment. They are based on my experiences and voiced by other brownfield professionals around the country.

**1. Area Wide Planning** – The introduction of Brownfield Area Wide Planning as a part of the EPA

Brownfield Program is a strong indication that the EPA Brownfield Program is adapting to market demand and reflects an intimate understanding of factors that the real estate market responds to. It is used as another method of putting properties, corridors and districts on track for investment, redevelopment, employment, and efficient tax revenue generation. I strongly encourage its formal adoption through statute and made a permanent feature of the EPA Brownfield Program.

**2. Nonprofit eligibility** - Under the current program, the Brownfield assessment grants are

available only to units of local government. Nonprofit organizations are not eligible. It is my professional opinion that by making nonprofit organizations eligible entities, it will greatly

increase the capacity of local communities to successfully partner with private investment and development interests to deliver redevelopment products that revitalizes land, creates jobs, housing, and other opportunity that would otherwise not occur. Not only have nonprofit organizations demonstrated their capability to successfully administer grants like this but they are able to do so without the reliance of a local municipality to drive investment and redevelopment.

3. **Administrative costs** - The current program does not include administrative costs as eligible expenses under a grant. I understand there is a slippery slope here and that the purpose of the grant program is not to pay for overhead costs that should be covered by the grant recipient. However, without some administrative costs allowed the result is that there can be insufficient direct assistance and advocacy provided by the local municipality, thereby limiting the effectiveness of the grant resources. Allowing some level of administrative costs provides support for City staff to spend time working more directly with developers and property owners serving as their advocate as they navigate state regulatory programs. As the Program Manager for the City of Portland Brownfield Program I was able to broker relationships, make lenders comfortable with lending on Brownfields, expedite regulatory review processes and as a result see investment and development implemented.
  
4. **Renewable energy on brownfield properties** – Using brownfield properties to host renewable energy facilities, especially solar facilities, makes sense from multiple perspectives. In terms of land use planning many cities across the country (even primary markets) have large areas of former industrial land that has no foreseeable redevelopment scenario. Even landfills fall into this category. This is due to multiple factors such as a lack of demand for such land by industry;

its location is not suitable for commercial or housing; or that addressing its environmental conditions are cost or technically prohibitive to accommodate other uses. These sites sit vacant, potentially threatening human and environmental health, are financial liabilities to their owners and provide little if any tax revenue. Renewable energy facilities such as solar farms provide the owner with financial benefits and help reduce our dependence on fossil fuels; are compatible with technical and regulatory restrictions; improve community health, the economy, and reduce stigma of entire districts simultaneously. These facilities can even be considered an interim use, making the land available to accommodate more intensive uses as our towns and cities grow. This is an area in which technical assistance best serves this purpose rather than creating a specific allocation for such projects within the EPA Brownfield grant program. Renewable energy projects are already eligible projects within the program. Creating specific carve out of funding for specific types of development represents a slippery slope that begins to federally prescribe how the grant funding will be spent at the local level. It is widely desired by local brownfield efforts that they have the flexibility to direct their grant resources where they are most in demand.

5. **Liability concerns for municipal ownership** – Under the Comprehensive Environmental Response and Liability Act (CERCLA) municipalities who involuntarily acquire property through foreclosure are considered protected against federal enforcement for contamination they did not cause. However, these protections do not extend to municipalities in cases where the properties are acquired voluntarily, such as through traditional sale and purchase agreements as part of public facility expansion, urban renewal activity, etc. To further increase the capacity of local government to leverage investment in brownfield properties, the liability protections provided through involuntary acquisition should be extended to voluntary acquisition. A

potential precedent for such protections at the state level can be found in liability protection provisions in California's Polanco Act.

6. **Make federal tax incentive permanent** - Reinstating the federal tax incentive that expired in 2011 will help bridge financial gaps in project feasibility and result in property redevelopment, jobs, a stronger economy and environment. Brownfield projects are inherently more risky than other development and the tax incentive helps mitigate that uncertainty and as a result leverages private investment.
7. **Multi-Purpose grants** - Under the current program, grants for environmental assessments and for cleanup are awarded to local municipalities separately. Creating multipurpose grants where the recipient can conduct environmental assessments immediately followed by cleanup/remediation can effectively close the gap between assessment, cleanup and redevelopment which often occur.
8. **Expand partnerships to leverage community wide investment and equitable development** – Brownfield development and revitalization is an essential element to creating a strong local and national economy, providing opportunity for entrepreneurship, and improving the lives of communities who live with them. Unfortunately revitalization efforts do not always take advantage of local innovators, investors, and assets. In these cases decision making and financial benefit are held by relatively limited number of interests outside of the communities themselves. Demand for revitalization is far greater than the amount of capital and organizations who currently conduct it. This can change through expanding partnerships between community interests, developers, and local talent using the rapidly expanding world of

crowdsourcing and crowdfunding. This is especially true with recent innovations in the Securities Exchange Commission (SEC) stemming from the JOBS act of 2012. In May 2016 (next month), recent changes to SEC regulations will allow any community investor to make equity based financial investment in local development projects through online portals. This has never been allowed before. Until now only Accredited Investors (those with over \$200k of income and more than \$1million of net worth) have been allowed to make investments through these portals. After 15 years of working on initiatives to integrate local assets into brownfield development projects, this is the most promising innovation I have encountered. In the interest of full disclosure I have started one of these portals and this testimony might be perceived as self-serving but to limit this perception I will not name the portal/company. I strongly encourage EPA and its partners to explore ways in which local grant recipients identify and partner with equity and reward based crowdfunding portals to harness the financial and idea generating power of the crowd and local communities in which they work.

In conclusion, the EPA Brownfield Program is a critical asset used by local municipalities with a proven track record of resulting in jobs, private investment, public benefit, improved environmental quality, and more resilient communities. I encourage you to continue supporting the program by funding the program to the maximum appropriation allowed under the Comprehensive Environmental Response Compensation, and Liability Act (CERCLA) and to also support its continued evolution into an even more effective vehicle to achieve economic, environmental, social gains and a stronger United States of America.

Sincerely,

Clark Henry



Mr. SHIMKUS. Thank you very much for your testimony. And thanks for the recommendations. That is kind of what we are looking for too in all this process.

So now I would like to turn to Amy Romig, a partner at Plews, Shadley, Racher, and Braun.

Ms. ROMIG. Perfect.

Mr. SHIMKUS. And you are recognized for 5 minutes.

#### **STATEMENT OF AMY E. ROMIG**

Ms. ROMIG. Mr. Chairman, and members of the subcommittee, thank you for inviting me here today so that I can share my views on the EPA's Brownfields Program.

So based upon the committee questions for the first panelist, Mr. Stanislaus, I am very pleased to see that all of the committee members obviously support the Brownfields Program, because this program is essential and vital to the redevelopment of our economies in our small towns and cities.

As Chairman Shimkus said, I am an attorney with the law firm of Plews, Shadley, Racher, and Braun in Indianapolis, Indiana. And I represent private businesses, not-for-profit entities, and other private shareholders who develop these types of brownfield properties. We have also represented various cities and towns within Indiana who have taken advantage of the Brownfields Program. And we also represent economic development associations that would love to be able to take advantage of the Brownfields Program.

The Brownfields Program is important to private shareholders because it allows knowledge to be found about these sites that prohibits their development at this current point in time. I will be quite frank. When it comes to investors, they want to make money. And they are looking at buying properties that they can develop that will be profitable. And, quite frankly, they shy away from those properties that have unknown risks. They have to be able to make the calculation: Can I make money on this? And if you have unknown environmental liability, they simply won't make that investment.

So by giving this money to the cities and towns, you are increasing the knowledge base that helps overcome the burden of developing these properties. It makes it much more likely that investors will take these risks and invest their money.

We heard a lot from Mr. Stanislaus about the leveraging that happens. And this is precisely what happens when you put this money in the investment of knowledge, is that you make private people willing to invest even more of their money in these projects.

I would like to give an example of one of the projects that my firm worked on. There was a blighted piece of property on several acres along an interstate in Indianapolis, and the neighboring properties were getting run down. No one wanted to be around this property. And the State of Indiana and the city of Indianapolis invested a couple of hundred thousand dollars in helping clean it up so that an out-of-state business would come in and invest in a truck stop.

Over the last several years, more than \$8 million has been reinvested in property taxes, now that they are being paid on this prop-

erty, and sales tax because people are coming to this property. And, quite frankly, the value of the surrounding properties has increased and more development is occurring in this area simply because the State and the city invested a little bit of money. That is a 20-fold increase in the profitability of the seed money that the Brownfields Program put into this site. And more sites like this can happen if you increase the flexibility and the money available to these communities.

We have heard a lot about how can you improve the Brownfields Program. And, quite frankly, we do a really great job in Indianapolis. But the smaller towns don't do as well because they do not have the sophistication or the knowledge. While Indianapolis can afford to have a brownfields coordinator, the smaller towns can't. The person who is handling these things is often an engineer who is worried about how do I get the trash picked up and how do I keep the roads going?

So by allowing some administrative costs to your opening up the program to these smaller communities who need the most help, this will allow these communities to have more information about their sites because knowledge is power, as I talked about before. And it will help them make the contacts and meet the developers that will bring money to their communities.

One of the other issues that is really problematic and hindering brownfield development is transactional costs in time of both money and in time, because time is money. If I am a developer and I can go develop a greenfield site and get a return on my investment in 6 months, that is much more attractive to me than working through the Brownfields Program trying to get the State and the various agencies to approve my permits and not getting a return on my investment for several years. And the reason this is happening is, quite frankly, that the agencies don't have the resources.

Our Indiana Department of Environmental Management does a great job and they have a lot of skill and sophistication, but they have limited resources. So by allowing the Brownfields Program to use some of the money for administrative costs, you are going to provide and overcome the problems with time. Because, quite frankly, more people will be allowed to have this knowledge and it will speed the process up and it will make it more attractive to developers.

With that, I would like to thank you again for inviting me. And when we are finished with testimony, I would be pleased to answer any questions you have.

[The statement of Ms. Romig follows:]



**Testimony of Amy E. Romig  
Partner, PLEWS SHADLEY RACHER & BRAUN LLP,  
Indianapolis and South Bend, Indiana**

**Before the House of Representatives Committee on Energy and Commerce,  
Subcommittee on Environment and the Economy**

**Hearing on “EPA’s Brownfields Program: Empowering Cleanup and  
Encouraging Economic Redevelopment.”**

Mr. Chairman and Members of the Subcommittee, I am pleased to be invited to present my views on how the U.S. Environmental Protection Agency (“EPA”) Brownfields program impacts private stakeholders who are vital to the sustainable redevelopment, reuse, and investment in brownfields. The Brownfields Program is critical to reducing blight and converting these properties into productive, tax-revenue-generating properties for the communities in which they are located.

I am an attorney with the law firm of Plews Shadley Racher & Braun, LLP. I represent several private businesses, non-profit entities, and other private shareholders who are interested in property development. My firm also represents the Indiana Petroleum Marketers and Convenience Store Association, several towns and cities within Indiana, and economic development associations. The municipalities and businesses my firm represents are concerned with the continued funding of the Brownfields revitalization program, and they are also interested in any changes to the program that will reduce transactional costs in terms of both time and money. However, I am not presenting this testimony directly on my clients’ behalf. Rather, my advice to the to the Subcommittee today is drawn from



my fifteen years of work on environmental issues and redevelopment projects and my overall desire to improve the Brownfields programs both as a legal practitioner and as a citizen who lives in a community that has been assisted by the program. I have personally seen the positive impact brownfields redevelopment can have on a community.

#### **Why the Brownfields Program is Important to Private Shareholders**

The program supports the initial phases of site investigation that may prevent private redevelopment. While the typical American pictures a "brownfield property" as a large abandoned industrial site, in reality most brownfields properties are small properties such as former gas stations or drycleaners that may have low levels of environmental contamination and are interspersed throughout communities. Often, very little is known about these smaller properties since the businesses previously operating were small in size, somewhat unsophisticated and did not always keep extensive records.

Private developers are wary of such properties because the general lack of knowledge about the prior operations increases the potential risk for high cleanup costs, a concern about potential liability to neighboring property owners, and the potential for lengthy cleanup processes. All of these issues increase the transactional costs and the overall risk that developers face when they seek to acquire such properties.



When a business is looking for opportunities to develop within a community, they intend and plan to do so in a financially positive manner. Adding the risk of the unknown makes brownfield properties undesirable since businesses may not realistically assess the potential costs and downsides associated with unknown environmental conditions. When communities use brownfield grants and funding to investigate such sites in their brownfields inventory, they're filling in knowledge and information gaps that allow private developers to realistically assess risk and the potential for successful reuse, growth, and consequently, profit. While providing some initial site investigation information about a possibly contaminated site does not completely remove the impediment that site has compared to greenfield development, it may be just enough incentive to increase the chance of reuse and redevelopment.

For example, our firm has been involved in the development of commercial real estate in economically disadvantaged areas of Indianapolis. The initial knowledge generated by the city gave the developer some comfort in acquiring the site for redevelopment purposes. Knowing that the primary contaminant of concern was gasoline and assessing the geology of the site allowed the developer to know that although construction costs would be increased due to how potentially contaminated soil had to be handled; such additional costs would be worth it given the central location of the property for the intended commercial use. Furthermore, having some initial information about the environmental conditions of the site



allowed the developer to work with its environmental consultants to assess the likelihood of obtaining an environmental restrictive covenant ("ERC") which would dramatically lower cleanup costs. This information also allowed the developer to understand long-term costs associated with the development of the property, such as the maintenance of a parking lot as an institutional control. Knowing this allowed the commercial developer to make an educated calculation whether or not the potential risks were outweighed by the favorable location and benefit of developing this property.

Similarly our firm assisted in the redevelopment of a large abandoned brownfield site along an interstate in Indiana into a large and successful truck stop and travel plaza. This redevelopment never would have been completed without the assistance of the brownfield program and a partnership with both city and state environmental agencies. The petroleum marketer was willing to make a large investment both in acquiring the property as well as completing any necessary environmental work and maintenance in part because the city and state were willing (and had the funding available) to assist in the site assessment and response. A property which had sat vacant for years was returned to the tax rolls, improved the neighborhood (and hence surrounding property values), and provided much needed jobs in a struggling economy. None of these benefits to the community would have happened without the Brownfields programs.



#### The Brownfields Program is Not a Windfall to Private Businesses

When I describe what I do to my neighbors or in social settings, I'm often asked why the government should provide funding for private businesses to develop properties. This is a fundamental misunderstanding about how the Brownfield program works. Developers are not paid to develop these blighted properties – they're investing private money for development. Rather, any grants or money that helps with the development of the property acts as seed money to help overcome the impediments that come with contaminated properties. Make no mistake – the development of these properties is often more expensive and time-consuming than the development of a property without the stigma of environmental contamination. Lenders are less likely to provide loans for contaminated property, especially without extensive and detailed information regarding the scope of contamination and the extent of any necessary remediation. Insurance companies may be less likely to write policies to cover such properties. Lessees may be wary of leasing such properties because of concern over possible liability. Furthermore, building and development may be delayed while dealing with government agencies and getting permission to complete the development due to environmental risks. Developers often have to provide additional money up front to deal with these hardships, while experiencing a delay in profiting from the development due to the delays added in dealing with the potential environmental liabilities. Furthermore – these investments are rarely a sure thing. During construction additional



contamination or other contingencies may be encountered that drive up the cost of development. Thus, these projects always come with a higher risk that can cripple a business. Developers can often only complete these projects by cobbling together various sources of funding, such as loans and insurance proceeds, all while walking the tight-rope of hoping that they correctly anticipated and planned for the environmental risks and costs. Rarely does brownfield money provide the sole source of funding necessary for these projects and rarely are these projects completed precisely as planned.

#### **Assisting Communities will Assist Businesses and Redevelopment**

In my experience the most successful Brownfield redevelopment happens in well-organized and well-funded communities. This occurs because these cities can afford to hire knowledgeable and qualified staff to assess their inventory of brownfields and to develop and collect information about the businesses previously operated on those properties. These staff members also often assist smaller businesses in their interactions with environmental regulators and make the successful redevelopment of a property more likely.

Quite simply, those communities that have the most knowledge about their properties and can help with the navigation of the regulatory system make their sites more attractive for redevelopment. As I discussed above, knowledge allows businesses to realistically assess the risks and benefits to acquire and develop a



property, and the existence of this knowledge often is the critical factor in whether an impacted property will be developed or not.

To level the playing field for smaller and economically distressed communities will require providing those communities with the resources that large cities have to develop this type of information. I support any changes to the Brownfields revitalization program that improves the technical assistance available to small and distressed communities, or provides funding to help these communities hire qualified and sophisticated staff. These changes will enhance how the Brownfields program works in these communities.

### **Conclusion**

The EPA's Brownfields Program is working to develop blighted properties, improve the communities in which these properties are located, and to make a property work again by providing tax revenues and jobs through redevelopment. I have seen it work in both my practice and my community.

While contaminated properties will always present inherent risks to private businesses looking to develop them, the existence of the Brownfields program helps level the playing field and provides some seed money to overcome the risks of environmental contamination. But for this funding, much of this development would never happen. Providing additional resources to small and distressed communities can only improve the program.



The Brownfields revitalization program is a wonderful asset in the arsenal of communities focusing on improving the economic vitality and quality of life for their citizens. I want to thank the Committee for taking the time to see how they can make the program work even better.

Mr. SHIMKUS. Thank you for coming. I just—I represent Danville, Illinois and Marshall, Illinois, which is closer to Indianapolis than my own house. So I do appreciate, and, unfortunately—well, fortunately, have to fly into Indianapolis sometimes to get to the eastern part of my district. So I know the community better than I used to.

So now let me turn to Veronica Eady, a vice president and director of Conservation Law Foundation. We are glad to have you here. You are recognized for 5 minutes.

#### **STATEMENT OF VERONICA EADY**

Ms. EADY. Mr. Chairman, thank you for the invitation. I am really pleased to be here and speaking to the committee.

Conservation Law Foundation, founded in 1966, is a member-supported environmental advocacy organization. We are headquartered in Boston with five offices throughout New England and we protect New England's environment for the benefit of all people. We use law, science, and the market to create solutions that preserve our natural resources, build healthy communities, and sustain a vibrant economy. And while I am a lawyer, we are fully multidisciplinary. We employ economists, scientists, planners, and investment fund managers.

We support—and I will refer to my organization, Conservation Law Foundation interchangeably as CLF. CLF supports, without reservation, EPA and its Brownfields Programs. Nonprofit organizations have long played a critical role in facilitating the cleanup of brownfield sites. My own organization has convened community planning charrettes helping residents to articulate their vision for longstanding contaminated sites. We have also provided technical assistance to city and towns, helping them understand their legal options under State and Federal brownfields law.

And as a founding member of the Massachusetts Smart Growth Alliance, CLF is working in broad coalition with other stakeholders to secure funding that would replenish Massachusetts' Brownfields Redevelopment Fund, which is kind of the corollary to the EPA program.

Massachusetts has many brownfield sites that have contamination that predates the industrial revolution. And I want to take a moment to talk a minute about the city of New Bedford, which is one of my favorite cities in Massachusetts, iconic and, of course, the site of Herman Melville's Moby Dick.

Last year, CLF undertook a comprehensive investigation into the nature and extent of contamination in New Bedford and what potential exposure there might be for residents. We focused on an environmental justice analysis, which involved studying census and other demographic data, to determine whether low-income communities and communities of color bore a disproportionate environmental burden.

We spoke with nearly 2 dozen residents, city officials, environmental regulators and others. And although New Bedford has received State and Federal brownfields funding in the past, one city official commented that the biggest environmental justice issue still facing the city continues to be the lack of funding available to identify more unaddressed contaminated sites.

New Bedford's pollution dates back to the mid-1700s when the economy shifted from agriculture to whaling and whaling-related industry, such as oil processing, soap making, and ship building. These early industries likely admitted into the environment oils, arsenic, mercury, cyanide, biological waste, polycyclic aromatic hydrocarbons, and other caustic substances that were disposed directly into the soils and waterways. After that we had the textile industry a century later. That was displaced by the electronics industry. So we have layer and layer upon pollution in New Bedford.

New Bedford's population is about 9,500. New Bedford's median income is less than 50 percent of the State average. Some of the poorest residents literally live across the street from sites that have been mothballed because the industrial operations have long decades gone, nowhere to be found, and the city is left holding the bag.

In some cases pollution has migrated into the homes of people. In some cases—in one case in particular, 84 homes had to be relocated. And these homes were on a site where currently, even today, there are two public schools on the site. The Department of Public Health had to come in and do an assessment to find out if there was any special—you know, any spikes in cancer rates and things like that resulting from the contamination. And, of course, New Bedford is only one of many similarly situated cities and towns in the country.

Brownfield redevelopment is for many cities and towns the only form of developable property, particularly in New England, because of limited inventories of undeveloped land. And in order to develop these brownfields, they need access to funding. Access to further brownfield funding and technical assistance would be a major step for these communities.

New Bedford does have some good news. There have been some brownfield sites, many, actually, that have been redeveloped. And there are a couple that are noteworthy. I will just name—one was a supermarket development that went into a former mill site and created 600 jobs. There is a marine commerce terminal project that will facilitate renewable energy and that is going to create 200 permanent jobs.

So in conclusion, I want to once again say how fully CLF supports EPA and these programs. I appreciate you being here—or your invitation to me, and I look forward to questions.

[The statement of Ms. Eady follows:]



**Written Testimony of Veronica Eady on  
“EPA’s Brownfields Program: Empowering Cleanup and  
Encouraging Economic Redevelopment” before the  
Congress of the United States  
House of Representatives  
Committee on Energy and Commerce  
April 21, 2016**

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My name is Veronica Eady, and I offer testimony today on behalf of the Conservation Law Foundation (CLF). I am Vice President and Director of CLF's Massachusetts office.

Founded in 1966, Conservation Law Foundation is a member-supported environmental advocacy organization headquartered in Boston, Massachusetts. CLF protects New England's environment for the benefit of all people. We use the law, science, and the market to create solutions that preserve our natural resources, build healthy communities, and sustain a vibrant economy.

I want to thank the Committee on Energy and Commerce for this opportunity to provide testimony during this hearing entitled “EPA’s Brownfields Program: Empowering Cleanup and Encouraging Economic Redevelopment.” We support, without reservation, the funding and implementation of EPA’s Brownfields Program.

Across the country, cities and towns are pockmarked with blighted properties that have been largely avoided because of real or perceived contamination and the uncertain legal liability arising from that contamination. Many brownfields sites in Massachusetts have contamination that pre-dates the Industrial Revolution, creating an acute challenge to remediating and returning brownfields properties into productive reuse.

Non-profit environmental organizations have long played a critical role in facilitating the cleanup of brownfields sites. My own organization, CLF (through our sister organization, CLF



conservation law foundation

Ventures), has convened community planning charettes to help residents articulate their vision for the redevelopment of longstanding contaminated sites. We have also provided technical assistance to cities and towns seeking to remediate sites and return them to economic activity, helping them to understand their legal options under state and federal brownfields laws. A founding member of the Massachusetts Smart Growth Alliance, we are working in broad coalition with other stakeholders to secure funding that would replenish the Massachusetts Brownfields Redevelopment Fund.

Last year CLF undertook a comprehensive investigation into the nature and extent of contamination in New Bedford, Massachusetts and what potential exposure residents might be subject to. We focused on an environmental justice analysis, which involved studying census and other demographic data to determine whether low-income communities and communities of color bear a disproportionate environmental burden. We spoke with nearly two dozen residents, city officials, environmental regulators, and others. Although New Bedford has received state and federal brownfields funding in the past, one city official commented that the biggest environmental justice issue challenge facing New Bedford today is continues to be the lack of funding available to identify more unaddressed contaminated sites.

New Bedford has pollution that dates back to the mid-1700s when the economy shifted to whaling and whaling-related industries, such as whale oil processing, soap-making, and ship-building. These early industries likely emitted into the environment oils, arsenic, mercury, cyanide, biological wastes, polycyclic aromatic hydrocarbons (PAHs), and other caustic substances that were disposed of directly into soils and waterways. When the whaling industry left, textiles manufacturers moved in a century later. And after the departure of the textile industry came the electronics industry with its own spectrum of pollution. Layer upon layer of



conservation law foundation

pollution in New Bedford, one of the nation's oldest and most iconic small cities, has led to a blighted city that is struggling to survive in today's economy.

Some of New Bedford's poorest residents live literally across the street from sites that have been mothballed because the industrial operations have been long gone for decades, and the city has been left holding the bag. In other cases, scores of households have been relocated due to migrating pollution from nearby brownfields. New Bedford also has two public schools sitting on a brownfields site. In response to a petition by teachers, staff, and faculty at one school, the state Department of Public Health undertook an investigation into possible exposure to PCBs – highly toxic polychlorinated biphenyls – that resulted in some classrooms being sealed off to protect against toxic gases that have entered the school through the building's ventilation system.

New Bedford is only one of many similarly situated cities and towns in Massachusetts and in the nation. Brownfields redevelopment is for many cities and towns the only form of developable property because of very limited inventories of undeveloped properties. And in order to develop these brownfields sites, cities and towns need access to funding to identify, assess, and clean up contaminated properties. Access to further federal brownfields funding would be a major step in assisting these communities, ultimately bringing jobs and revenue that would stimulate – and in cases like New Bedford could be a cornerstone of – local economies.

In conclusion and on behalf of the Conservation Law Foundation, I would like to thank the House Committee on Energy and Commerce for holding this hearing on EPA's Brownfields Program. A strong, fully funded brownfields program will give an invaluable leg-up to cities like New Bedford and bolster its local economy while advancing a safe and healthful environment.



Once again, I thank you for this opportunity to provide testimony before the House Committee on Energy and Environment.

For further information, please contact:

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Mr. SHIMKUS. Thank you very much.

Now I will start with a round of questions. I will recognize myself for 5 minutes. And the first question will go to Ms. Romig.

In your written testimony, it takes on what is probably a fairly common notion that the Brownfields Program creates a windfall to private developers and investors. Would you please explain why that you believe that is not true?

Ms. ROMIG. These developers and investors still have to put their own time and money into these projects. They have significant skin in the game. And when they are tackling these sites, these sites are more expensive to deal with than if they were dealing with a greenfield.

So the Brownfields Program provides a little bit of seed money, but it is certainly not making anyone rich. They are not making a tremendous amount of money on it. And in fact, a lot of these projects, they don't make as much as they might possibly make if they were developing a greenfield. So they are still investing a significant amount of time and money of their own. So it is not a windfall.

Mr. SHIMKUS. Yes. And I appreciate that time is money, how quickly can you develop a site. Also, everyone has talked about risk. Right? There is some risk. And I think we in Congress are starting to understand that a little bit more as far as risk and reward and time and all the other stuff. And this is a perfect example.

Let me go to Mr. Anderson. As you know, the brownfields law requires, and this was asked earlier to Mr. Stanislaus, that 25 percent of the funds appropriated to the EPA for activities authorized under CERCLA or Superfund 104(k), be used to characterize, assess, and remediate petroleum brownfields. Do you still—do you think that this petroleum set-aside is still necessary?

Mr. ANDERSON. Yes, sir. And it is difficult to—you know, when you get an assessment grant, as a city does, and you are trying to go through the property, if you are trying to designate exactly 25 percent, it really hampers you. If you have got the flexibility of the full amount and—you are going to run into petroleum on almost all these brownfield sites regardless. So I don't think it is necessary any longer, sir.

Mr. SHIMKUS. And I think that concurs with what Mr. Stanislaus also testified.

Mr. ANDERSON. Yes, sir.

Mr. SHIMKUS. Mayor, in your testimony states that the, quote/unquote, easy brownfield sites have already been developed and what now remains are more difficult, and you used the terminology "darker brown," which I am going to start using. I think it is a good terminology. Your testimony notes that minor changes to the brownfields law would help spur on additional redevelopment projects and economic growth. Can you walk us through some—your opinion regarding what type of changes would be helpful?

Mr. BOLLWAGE. The most important one would be clarifying some eligibility, as well as flexibility on the grant funding. If the money is targeted for assessments or targeted for cleanup, oftentimes the developer comes in and the money could be used in a better way in

some other category. And I think giving us flexibility would help us tremendously.

Mr. SHIMKUS. So explain flexibility. Tell us where are you constrained and what more flexibility—

Mr. BOLLWAGE. The assessment grant that we have had in the city of Elizabeth was used excellent to develop an identification of 50-some-odd brownfield sites. Now that we have identified the brownfield sites and there is still assessment grants out there, it is important to know that we could still apply for assessment grants, but we understand what is in all of those properties.

So if we can use assessment money for cleanup costs, or if we can use assessment money for some type of infrastructure that is necessary to get to the brownfield site—when we built the Jersey Gardens Mall, it was on a 166-acre site. The developer came to me and said: You know, I will remediate this mall, but you need to build the road to get there. And the road to get there cost \$10 million. So I built a road in 1996 to get to a dump. And I could see the campaign literature against me that I built a road to a dump and then nothing happened. So the flexibility would be important, Mr. Chairman.

Mr. SHIMKUS. Yes. We did have a bridge to nowhere debate here—

Mr. BOLLWAGE. That is another State, though.

Mr. SHIMKUS [continuing]. In Washington, too. So Mr. Pallone remembers that.

And my last question will go to Mr. Henry. In your written testimony, you discussed the need for area-wide planning. Can you walk us through what that means when you say area-wide? Why you believe it is important to make it a permanent feature of the Brownfields Program.

Mr. HENRY. Absolutely. You know, in the early days of administering these grants and working through doing assessments and cleanup planning, you know, when you are doing an assessment and trying to plan for a cleanup, the most important thing that you—that the brownfield community realizes, you have to know what you are planning for. You have to understand what kind of redevelopment you are looking at.

And then you also recognize that just by doing one property, you are probably operating in a corridor or a district with multiple properties. And by knocking down this one domino, you are probably catalyzing some additional investment. But you really also have to take into account—and some of these—and it ties also into the other complications, that the easy sites are gone. The other—some of these other complications are related to adequate infrastructure, other partnerships that could be out there and what is the community-supported vision?

So in an area-wide planning process, we recognize that developers and organizations and the stakeholder group, in general, was looking for a vision that really indicated the city is a solid partner and willing to make the investments, like building roads and putting in additional infrastructure. Area-wide planning queues up multiple sites and entire districts for that investment and involves the community in helping decide what that vision is.

Mr. SHIMKUS. And that, should we also maybe link them up in the development program?

Mr. HENRY. Yes. And so—yes, it is—whether the assessment comes first or area-wide planning—it has happened in different ways—but they are very complementary.

Mr. SHIMKUS. Yes. Excellent. Thank you.

My time has expired. The Chair now recognizes the ranking member of the subcommittee, Mr. Tonko for 5 minutes.

Mr. TONKO. Thank you, Mr. Chair.

And, again, welcome to all of our witnesses.

Mr. Henry, what has your experience with area-wide planning been?

Mr. HENRY. My first experience, I supported EPA's brownfield office in supporting the first round of area-wide planning grantees, helping them transition their plans into more implementation-based documents and strategies. And then I recently concluded a brownfield area-wide planning project in Redmond, Oregon, and one in Hickory, North Carolina.

Mr. TONKO. And when you get into an area-wide planning, I can imagine there might be some burdens and there are certainly benefits. Can you identify each of those, maybe from experience what some have been?

Mr. HENRY. Of the burdens and benefits?

Mr. TONKO. Yes.

Mr. HENRY. So with brownfields, there is a really large perception issue. And when you go into public and you say: We are going to identify brownfields and we are looking at your—and you show a map and they have people's properties up there, red flags go up in their heads. So one of the burdens you have to do is say, we are really not—we are not here to pin you and say that you have contamination.

First, the definition of a brownfield doesn't say you are contaminated and it doesn't say you are liable for it. And so you really have to—there is a lot of communication that has to—you have to undertake to make sure they understand you are creating a vision and you are helping them realize their goals as well.

And the benefit is, once you have effectively communicated that strategy to them, they are very solid partners to the municipalities and their neighbors. And there are people who will get in a room and hash out a strategy that previously you didn't want to talk together.

And the plan is that these are also implementation strategies at their core. This is about getting investments. So you are creating partnerships and staging projects on particular properties as catalysts in supporting that show a whole spread of things that can happen on these brownfield properties.

Mr. TONKO. In terms of value added, what does area-wide planning has the greatest value added provide?

Mr. HENRY. I think it magnifies the effect of the Brownfields Program in general.

Mr. TONKO. OK.

Mr. HENRY. And we stop talking about individual properties and we start talking about entire communities and neighborhoods.

Mr. TONKO. And in terms of coming together as an area, is it a common contaminant—if there is a contaminant, is it common use?

Mr. HENRY. Sometimes you look at—some of these area-wide planning projects are occurring in industrial areas that are trying to modernize and address—and so the environmental issues and infrastructure issues won't be a burden for new industry moving in. Other times these are automobile—these are like commercial corridors with a lot of automobile-related brownfield sites, like small infield gas stations and automotive. But, no, you are almost always talking about multiple types of contamination.

Mr. TONKO. OK. And, Ms. Eady, I am grateful, certainly, for your cause to recognize the role that these cleanups play in promoting environmental justice. Many brownfields are in distressed communities that need additional technical assistance and capacity building to get the projects done. Can you explain the role that non-profits currently play in remediating our brownfields?

Ms. EADY. Well, a lot of nonprofits are—play the role, kind of as Mr. Henry described, leading these planning efforts and things of that sort. But we have directly provided technical assistance to cities and towns, whether it is in describing the liability protections or what the appropriate end uses are for the level of contamination in the property.

We are working in coalition with a bunch of groups in a mill town in Massachusetts where there are some community development corporations that are involved in other kind of quasi-non-profit/quasi-public organizations to do broad planning efforts like the type that would be done in area-wide planning.

Mr. TONKO. Do you think that there is a larger role for non-profits to play in working on the assessment and cleanup efforts?

Ms. EADY. I think that there is absolutely an expanded role that can be played. And I think that were nonprofits to have access to EPA public brownfield funding, I think that the role would probably expand and evolve.

My organization has a lot of close ties, particularly at the community level. And I do believe that if funding were available, we would be able to strike partnerships with some of these communities and play the more scientific role and advisory role.

Mr. TONKO. Thank you. And if I could just have you across the board state what you think the caps ought to look like. And I would offer the caveat that we wouldn't reduce the amount of award winners but appropriately increase the overall pot. But what do you think we should do with the caps? If you could do that across the board, please. And start with Mr. Anderson.

Mr. ANDERSON. What did we use earlier? A million, I believe, was one of the proposed caps. A million would probably be a good cap. That is a lot of money to spend, and you do have to have quite a bit of prior planning. But when you get these coal gasification sites, like you mentioned in your roundtable, they are very challenging to deal with and they can cost much, much more.

Mr. TONKO. Thank you. It is good to see you again, by the way. Mayor?

Mr. BOLLWAGE. Yes. Mr. Tonko, in my testimony I said a million dollars. And then also for special circumstances to go to \$2 million.

Mr. TONKO. And, Mr. Henry?

Mr. HENRY. Yes. I believe with the caveat that the number of recipients wouldn't be decreased, I think a million dollars is a reasonable number.

Mr. TONKO. Ms. Romig?

Ms. ROMIG. I find a million is reasonable as well.

Ms. EADY. Yes. I agree, and also as Mr. Henry provided.

Mr. SHIMKUS. Just pull that mike over again.

Ms. EADY. I agree, and also with Mr. Henry's proviso that it doesn't shrink the number of grants.

Mr. TONKO. I hear you. We don't want to do that.

Ms. EADY. In a perfect world, yes.

Mr. TONKO. OK. Well, you sound like you are getting along. So that is great. Thank you very much.

Mr. SHIMKUS. The gentleman's time has expired.

The Chair now recognizes the ranking member of our full committee, Mr. Pallone, for 5 minutes.

Mr. PALLONE. Thank you, Mr. Chairman. I wanted to first ask Mr. Anderson a question and then go to Mayor Bollwage.

Mr. Anderson, you note in your testimony—I know you touched upon this, but I wanted to ask it directly. You note in your testimony that the average grant award has declined. Do you think an increase in the cap on individual grants would assist communities, particularly as they try to revitalize sites with more complicated cleanups? I know you answered it, but I would like to ask you that directly.

Mr. ANDERSON. The caps for the individual communities or—

Mr. PALLONE. On individual grants, yes.

Mr. ANDERSON. I think it will help the communities—you know, it is hard to say. Most of the communities are going to go for the maximum amount because of the difficulty in getting to that point. So why would you go for less than whatever the maximum is for a specific grant, such as \$200,000? Some of the grants that I did mention are the 128(a), which is a subset. And those have decreased as more entities have come to the table, the States, the tribes, and the territories. But I hate to say it: More money does help.

Mr. PALLONE. OK. Now let me go to Mayor Bollwage. You mentioned your town, Elizabeth, received a grant under the regional pilot program in the 1990s. Correct?

Mr. BOLLWAGE. Yes.

Mr. PALLONE. We heard from Mr. Stanislaus earlier that the EPA has started another pilot program, the multipurpose grant program to give communities more flexibility. Do you think that having that greater flexibility, like that afforded to communities with the multipurpose grants, would assist them better in cleaning up the contaminated sites?

Mr. BOLLWAGE. Yes, I do, Congressman. Also, you know, the city of Elizabeth is currently using two 2011 EPA community-wide assessment grants for hazardous substances and petroleum in our midtown redevelopment area. So in answer to your question, I believe yes.

Mr. PALLONE. I mean, I think that the flexibility is valuable. Then the most important issue, which was mentioned repeatedly today, is the need for adequate funding. I just like you to comment

on, you know, higher funding levels for the program, and, you know, what it would mean to Elizabeth in redeveloping brownfield properties.

Mr. BOLLWAGE. Congressman, higher funding levels could allow for some reasonable administrative costs, which was testimony not only here, but also by Mr. Stanislaus. Also, one of the testimonies on this panel was addressing mothballed sites, which are clearly forgotten. I don't know New Bedford as well, but we have them in Elizabeth as well where they are just totally forgotten and they sit there. Additional funding would help us address mothballed sites. And also, the clarifying of the eligibility of the publicly owned sites before 2002, financing would help address that issue as well, Congressman.

Mr. PALLONE. All right. Thanks a lot.

Ms. Eady, would you agree or comment on what the mayor said?

Ms. EADY. I agree with the mayor. And I was just thinking about what other contexts additional funding, particularly to the non-profit sector, would be helpful. And in thinking about New Bedford, one of our partner organizations in New Bedford called the Buzzards Bay Coalition was given a technical assistance grant to work on one of New Bedford's Superfund sites. This was the New Bedford Harbor Superfund site. And with the technical assistance grants that they were able to get, they were able to directly support the local community so the community understood the process, which, of course, is very complex, and, you know, that they understood the science.

And I think that that is a—really a critical role. And it is really important to bring the community along, and particularly in New Bedford where, because there is so much contamination, there is this really amazing level of distrust. And I imagine that this is not unique to other parts of the country.

And so I think that with nonprofits able to access funding, we could play an important role so that communities wouldn't be—would be less likely to oppose redevelopment projects.

Mr. PALLONE. All right. Thanks a lot. You know, I was—I really enjoy hearing how the Brownfields Program has helped so many communities. I don't know if I mentioned to my colleagues, I don't actually represent Elizabeth where Mayor Bollwage is, but just south is Carteret, which is a much smaller town.

But if you think about it, Mayor, I mean, same phenomenon. I mean, you know, how many sites in Carteret have been cleaned up? And there again, it is a much smaller community that doesn't—you know, probably even has less resources because of its size. And when we talk about adequate funding, it is so important not only for Elizabeth, for a lot of the smaller towns.

Because New Jersey, Mr. Chairman, has—you know, we have a lot of towns. And people think of Newark and, you know, larger cities. But, I mean, most of the towns I represent have less than 40,000 people, but yet they have the same situation as Elizabeth. So—

Mr. BOLLWAGE. Carteret has done a remarkable job on the waterfront with the brownfields from the petroleum industry years ago, and they have created into warehouses. And Mayor Reiman is extremely proud of his efforts in Carteret.

Mr. PALLONE. Yes. I know, it is true. And we have more brownfield sites than any other State. I guess that is no surprise.

Mr. SHIMKUS. I thought you would have had that all cleaned up by now. All these years you have been here, I thought you would have had that fixed.

Mr. PALLONE. We keep trying.

Mr. SHIMKUS. The gentleman yields back his time.

We want to thank you for coming. And even though there is just a few of us left, you do have the chairman of the subcommittee, the ranking member of the subcommittee, and the ranking member of the full committee. I think that shows our interest and the importance of this issue. We look forward to working together as we move forward.

And with that I will adjourn the hearing. Thank you.

[Whereupon, at 12:16 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

FRED UPTON, MICHIGAN  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

May 13, 2016

The Honorable Mathy Stanislaus  
Assistant Administrator  
Office of Solid Waste and Emergency Response  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20004

Dear Assistant Administrator Stanislaus:

Thank you for appearing before the Subcommittee on Environment and the Economy on Thursday, April 21, 2016, to testify at the hearing entitled "EPA's Brownfields Program: Empowering Cleanup and Encouraging Economic Redevelopment."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on May 27, 2016. Your responses should be mailed to Will Batson, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to [Will.Batson@mail.house.gov](mailto:Will.Batson@mail.house.gov).

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

Chairman  
Subcommittee on Environment and the Economy

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment and the Economy

Attachment



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL - 6 2016

OFFICE OF  
CONGRESSIONAL AND  
INTERGOVERNMENTAL  
RELATIONS

The Honorable John Shimkus  
Chairman  
Committee on Energy and Commerce  
Subcommittee on Environment and Economy  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed please find the U.S. Environmental Protection Agency's responses to the Subcommittee's questions for the record following the April 21, 2016, hearing titled "EPA's Brownfields Program: Empowering Cleanup and Encouraging Economic Redevelopment."

I hope this information is helpful to you and the members of the Subcommittee. If you have further questions, please contact me or your staff may contact Raquel Snyder in my office at Snyder.Raquel@epa.gov or (202) 564-9586.

Sincerely,

[REDACTED]  
Nichole Distefano  
Associate Administrator

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL - 6 2016

OFFICE OF  
CONGRESSIONAL AND  
INTERGOVERNMENTAL  
RELATIONS

The Honorable Paul Tonko  
Ranking Member  
Committee on Energy and Commerce  
Subcommittee on Environment and Economy  
United States House of Representatives  
Washington, D.C. 20515

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I hope this information is helpful to you and the members of the Subcommittee. If you have further questions, please contact me or your staff may contact Raquel Snyder in my office at Snyder.Raquel@epa.gov or (202) 564-9586.

Sincerely,

[Redacted]  
Nichole Distefano  
Associate Administrator

Enclosure

**U.S. Environmental Protection Agency  
Responses to Questions for the Record**  
**Following the Hearing: "EPA's Brownfields Program: Empowering Cleanup and  
Encouraging Economic Redevelopment"**  
**Before the**  
**Subcommittee on Environment and Economy  
Committee on Energy and Commerce  
United States House of Representatives**  
**April 21, 2016**

**From Congressman Tim Murphy**

- 1. We understand that a number of people want to increase the amount of individual grants. What would be the impact of increasing the limit for remediation grants?**

Response: Brownfields cleanup cooperative agreements typically provide seed money to assist in cleanup of brownfield sites and are intended to leverage other public and private funds for the remainder of the cleanup and redevelopment costs. Increasing the amount of funds for individual remediation grants would reduce the number of remediation grants that could be selected. This would reduce the number of communities benefitting from brownfield cleanups. For example, if the cleanup cooperative agreement amount were raised to \$500,000 per award, rather than funding the 59 cleanup cooperative agreements in FY16, we would have only been able to fund approximately 22 cleanup agreements. This is approximately one-third the number of sites benefitting from our cleanup funding.

- A. Would increasing the amount of remediation grants negatively affect the leveraging of federal brownfields money?**

Response: We cannot predict the effect that increasing the individual amount of remediation grants would have on leveraging or if this would have a negative effect. Leveraging depends on many things including local leadership, location of the property and extent of available sources of capital, property ownership and current market/economic conditions. One might expect that if the total grant dollars are a significant percentage of the total cleanup costs, it may be easier to find leveraged dollars. However, it may also be that grantees will not feel the same pressure to secure as much leveraged funding if they receive more grant dollars.

- 2. With all of the Administration's regulations affecting coal-fired electricity generation, has EPA analyzed the extent to which there are coal fired generating facilities that are closing and not converting to another fuel that will likely become sites that could be cleaned up and redeveloped under the Brownfields Program?**

- A. What is EPA doing to address the issue that there will soon be all of these closed plants?**

**Response:** The EPA recognizes that communities who have recently experienced or will soon experience closure of a coal-fired power plant may need resources to help them research and plan for how to address the environmental and economic changes that occur within the vicinity of the plant closure. A closed/closing coal-fired power plant or related legacy site is likely to become a large, blighted area that the community needs to address. In an effort to help communities who struggle with how to revitalize areas affected by recently a closed/closing coal-fired power plant, EPA has opened the FY2017 Brownfield Area-Wide Planning (BF AWP) grant competition to eligible applicants who include a recently closed (2008 or later) or closing coal-fired power plant in their proposed brownfields project area.

The focus of the BF AWP grant assistance is help a community develop a plan to cleanup and reuse key brownfields within a designated project area, so that these sites can serve as catalysts that help bring about additional community redevelopment opportunities. With this grant funding, the recipient is able to conduct community involvement activities which will help identify development priorities, as well as research the type of development the market will support, the condition of infrastructure and known environmental conditions for the catalyst brownfield sites. By taking into account all this information, the community will develop feasible cleanup and reuse plans for the catalyst brownfields site(s) and identify promising revitalization strategies for the area. While a closed/closing coal-fired power plant may not be the focus of the BF AWP grant if it does not meet the brownfields funding definition as per CERCLA 101 (39) (see more information in response B, below), the community's brownfield area-wide plan can be developed in a manner that takes into consideration the overall effects of the nearby closed/closing coal-fired power plant sites.

**B. Does EPA have any plans or ideas on how to manage these sites under the Brownfields Program?**

**Response:** We believe that most closed coal-fired power plants will not be eligible for brownfields assessment, cleanup, or revolving loan fund (RLF) grants (including RLF sub grants and loans). We expect that many of these facilities will not meet the definition of a brownfield site or will be owned by private entities or public utilities that are responsible for the contamination at the property.

Many coal-fired power plants may be regulated under the Resource Conservation and Recovery Act or may have a permit issued under the Clean Water Act, and therefore be excluded from the definition of a brownfield. The definition of a brownfield at CERCLA section 101(39)(B)(iv) excludes "...a facility to which a permit has been issued by the United States or an authorized State under the Waste Disposal Act...the Federal Water Pollution Control Act...the Toxic Substances Control Act... or the Safe Drinking Water

Act...” In addition, CERCLA 101(39)(B)(v) excludes from the definition of a brownfield, a facility that “is subject to corrective action under RCRA, and a facility to which a RCRA corrective action permit or order has been issued.

In addition, the statute at section 104(k)(4)(B)(IV) prohibits the use of “any part of a brownfields grant or loan to cover response costs at a brownfields site for which the recipient of the grant is potentially liable under section 107” (of CERCLA). This statutory prohibition will preclude many entities that own a closed power plant from being eligible for a brownfields grant funding to cover the response costs at the site. The statutory exclusions from the definition of a brownfields site and the prohibition on the use of brownfields funding to address contamination at a site for which the grantee is the party responsible for the contamination will limit the use of brownfields funding to assist communities facing the closure of a coal-fired power plant.

However, communities may still be eligible for brownfields area-wide planning grants that may assist them in their brownfields cleanup and reuse efforts within the same vicinity of the closed/closing coal-fired power plant, provided that the catalyst brownfield site for the subject grant is not the power plant.

3. There is a bill pending in the Senate right now on brownfields – S. 1479. Some of the changes in that bill require EPA to consider certain types of grants – for example, waterfront grants and clean energy grants. Rather than directing EPA to consider certain sites for brownfield funding, shouldn’t local communities decide the best end use for a redevelopment project?

**A. Does EPA already have authority to issue a grant to these types of projects?**

Response: The EPA has the authority to award assessment, cleanup, and revolving loan fund grants that can provide funding for brownfield sites which will ultimately be used for waterfront and clean energy reuses. While it is easy to identify waterfront reuse projects due to their location, it is not as easy to identify sites that will potentially be used for clean energy reuses at the time of the brownfield grant application. This is because at the assessment or cleanup stage, the site reuse is often still being determined.

We believe the community is in the best position to know the needs of their community and what reuses best meet those needs. Rather than looking at specific end uses, our philosophy has been to look at whether the applicant has a clear plan and has engaged the community in developing that plan and the assessment, cleanup and reuse decisions affecting their communities.

FRED UPTON, MICHIGAN  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

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May 13, 2016

Mr. Mead Anderson  
Brownfields Program Manager  
Virginia Department of Environmental Quality  
P.O. Box 1105  
Richmond, VA 23218

Dear Mr. Anderson:

Thank you for appearing before the Subcommittee on Environment and the Economy on Thursday, April 21, 2016, to testify at the hearing entitled "EPA's Brownfields Program: Empowering Cleanup and Encouraging Economic Redevelopment."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

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Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

John Shimkus  
Chairman  
Subcommittee on Environment and the Economy

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment and the Economy

Attachment

**Additional Questions for the Record****The Honorable John Skimkus**

1. Would you please walk us through how State brownfields programs are funded and explain to us what 128(a) funds are and why they are important for States?

128(a) funds are grant monies provided by the EPA to states, territories, and tribes to deal with brownfield issues. A more precise definition follows: Section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, authorizes a noncompetitive grant program to establish and enhance state and tribal response programs. CERCLA section 128(a) response program grants are funded with categorical State and Tribal Assistance Grant (STAG) appropriations. Section 128(a) cooperative agreements are awarded and administered by the U.S. Environmental Protection Agency (EPA) regional offices. Generally, these response programs address the assessment, cleanup, and redevelopment of brownfields sites and other sites with actual or perceived contamination.

The 128(a) grant money is the backbone of the states' and territories' (States) brownfield programs. The EPA allows the states flexibility to apply these grants to benefit each state's unique program while at the same time providing consistency by requiring the states to meet the goals of the Four Elements required for the 128(a) grants. The Four Elements are 1) a survey and inventory of brownfield sites 2) oversight and enforcement authorities (so response actions/cleanup is protective of human health and the environment) 3) mechanics for meaningful public participation, and 4) mechanisms for approval of a cleanup plan, and verification and certification that cleanup is complete.

The majority of states must supplement their 128(a) grants with other sources of monies and the source of these additional funds varies widely, from entry fees charged for the state's brownfields/voluntary cleanup programs, hourly rates for review, yearly fees, and cost recovery, to special fees dedicated to brownfields to general funds. What is important to note is state program income may vary from year to year based on a number of factors including and most importantly, the economy, however 128(a) funds are stable and constant source of funding and allow for budget projects and consistent program implementation. The critical 128(a) funds have a wide variety of uses from environmental site assessments, brownfields marketing, 104(k) Brownfields Grant support, meth lab programs, and staff time for brownfields and voluntary cleanup program support. The 128(a) funds are the cornerstone to most states' programs (and in some cases the only funds), and without these funds the entire state program would be in jeopardy of not being able to function at a level to provide meaningful service to the public.

A summary of the state brownfield and voluntary response programs can be found at the following link: <https://www.epa.gov/brownfields/2014-state-brownfields-and-voluntary-response-programs>

2. What needs to be done, if anything, to improve the partnership between EPA and the States regarding brownfields?

ASTSWMO has enjoyed an excellent relationship with the EPA Office of Brownfields and Land Revitalization (OBLR) and has worked well with the staff on numerous projects over the years. The brownfields program across the nation developed in a different and unique manner which focused on a non-regulatory approach. This focus on the goal of land revitalization rather than on enforcement changed the entire state/EPA relationship leading to a positive and collaborative relationship. OBLR and the EPA regional offices have done an excellent job of providing support to the states' needs and allowing states flexibility with the use of 128(a) Brownfields Funds to fit each program's needs.

OBLR has typically joined ASTSWMO meetings on a regular (quarterly) basis, providing updates on EPA work, grant status, project updates, and budgetary issues as well as working on problem solving for any outstanding challenges. OBLR staff has typically been available to join conferences, symposiums, and state outreach events providing support and resources to revitalization efforts.

All of the ten EPA regions handle communications and partnership with their respective states slightly differently depending on their regional needs and mutual goals, however, the results have been an excellent working relationship.

**The Honorable Tim Murphy**

1. Mr. Anderson, there is a coal-fired plant in Alexandria – the Potomac River Generating Station – that was scheduled to be shut down. The plant is located near Old Town Alexandria on the Potomac River. This would seem to be the exact type of site that the Brownfields Program would address. Are you aware of any cleanup or redevelopment that is happening at the site?

This question is specific to Virginia and not directly related to the ASTSWMO testimony however please see the following response. The former Potomac River Generating Station (PRGS) property, situated in Alexandria near the Old Town area, has tremendous redevelopment

potential and under Virginia's definition of a brownfield the site would be defined as a brownfield.

In the fall of 2012 the PRGS ceased operation and shut down. Since the plant shutdown, the Virginia Department of Environmental Quality's (VDEQ) Northern Regional Office, working with input from the City of Alexandria, local citizens groups, the National Park Service, and the District of Columbia, has directed NRG Energy, Inc. (NRG) PRGS to develop and submit a comprehensive assessment and cleanup strategy to fulfill and complete their regulatory requirements. To date, most work has focused on the cleanup of petroleum hydrocarbons. Additionally, as with many petroleum release sites in Virginia, NRG is eligible to access the Virginia Petroleum Storage Tank Fund to cover costs for approved petroleum assessment and remediation activities. In March 2016, the remedial technologies outlined in the approved Corrective Action Plan became operational. It is expected that the petroleum cleanup will take several years. As for the site itself, NRG has indicated the company will explore redevelopment options, although no specific timeframe has been communicated to the VDEQ. However, any future redevelopment of the site will follow applicable City of Alexandria planning and zoning procedures, as well as any regulatory actions that may be required by the VDEQ. For non-regulatory mandated activities, VDEQ also anticipates working closely with NRG and the developers on future Voluntary Remediation / Brownfields redevelopment plans and proposals. Below are three links from VDEQ, the City of Alexandria, and NRG respectively to detailed information on the cleanup:

<http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/PetroleumProgram/CleanupActivities/PotomacRiverGeneratingStation.aspx>

<https://www.alexandriava.gov/GenOn>

<http://www.prgsonline.org/>

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 Minority (202) 225-3641

May 13, 2016

The Honorable J. Christian Bollwage  
 Mayor  
 City of Elizabeth  
 50 Winfield Scott Plaza  
 Elizabeth, NJ 07201

Dear Mayor Bollwage:

Thank you for appearing before the Subcommittee on Environment and the Economy on Thursday, April 21, 2016, to testify at the hearing entitled "EPA's Brownfields Program: Empowering Cleanup and Encouraging Economic Redevelopment."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

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Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

John Shimkus  
Chairman  
Subcommittee on Environment and the Economy

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment and the Economy

Attachment

[Mr. Bollwage's answers to submitted questions for the record have been retained in committee files and also are available at <http://docs.house.gov/meetings/IF/IF18/20160421/104837/HHRG-114-IF18-Wstate-BollwageJ-20160421-U1.pdf>.]

FRED UPTON, MICHIGAN  
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Minority (202) 225-3841

May 13, 2016

Mr. Clark Henry  
Owner  
CIII Associates  
237 Shore Point Drive  
Wilmington, NC 28411

Dear Mr. Henry:

Thank you for appearing before the Subcommittee on Environment and the Economy on Thursday, April 21, 2016, to testify at the hearing entitled "EPA's Brownfields Program: Empowering Cleanup and Encouraging Economic Redevelopment."

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Sincerely,



John Shimkus  
Chairman  
Subcommittee on Environment and the Economy

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment and the Economy

Attachment



**Date:** May 26, 2016

**To:** The Honorable John Shimkus,

**From:** Clark Henry, CIII Associates

**Re:** Response to additional questions following April 21, 2016 testimony to Subcommittee on Environment and the Economy

Representative Shimkus,

Thank you for following up with an additional question following my April 21, 2016 testimony to the Subcommittee on Environment and the Economy. It was a great honor to address yourself and the other representatives about the EPA Brownfields Program. I have provided my response to your question below in the prescribed format. Please just let me know if there is anything else I can do to help you or the Subcommittee.

- 1) Subcommittee Member question: John Shimkus, Chairman Subcommittee on Environment and The Economy
- 2) Question: Please explain the need for area-wide planning. Can you walk us through what it means and why you believe it is important to make it a permanent feature of the EPA Brownfields Program?
- 3) The need for Brownfield Area Wide Planning (BFAWP) is driven by the unfortunate reality that brownfields and their negative impacts are not isolated to individual properties. They compromise public health, economic development potential, and environmental quality on a broader scale such as entire districts, communities, blocks, and corridors. Whether they are contaminated or not, individual brownfield properties represent potential health threats, unquantified risk to developers and investors, and create an unfavorable atmosphere for investment in the surrounding area. Where developers and investors shy away from brownfields, they do the same to the properties next to and in proximity to them. The resulting domino effect creates disinvestment in entire areas that would otherwise accommodate commercial, office, and industrial businesses, housing, critical public facilities, and more.

Through BFAWP a local jurisdiction can conduct research (Existing conditions, market studies, and development capacity, etc.), stakeholder engagement, partnership development, and create implementation strategies for local and private investment that queues up development and investment on a scale broader than site by site planning. It prepares entire districts for investment rather than individual properties, effectively amplifying the ability of federal resources to leverage local public investment and private capital.

Though there is a brownfield twist, this type of activity is not necessarily new to planning and development professionals but it is activity whose demand is far greater than the supply of





resources to conduct it. This unmet demand is especially acute in small and rural municipalities whose local government capacity is limited or in communities in larger cities that do not have access to economic development resources such as Tax Increment Financing or substantial local tax revenue. The EPA BFAWP program provides them with access to resources that otherwise do not exist, and without them they continue suffering stagnated economic growth, exacerbated environmental and public health impacts, low employment, and underperforming public facilities.

By focusing on brownfields as development opportunities (which they are), rather than as a liability, BFAWP helps local municipalities demonstrate their commitment to a district, which is an essential element for private capital and community support alike. The EPA has been very clear to grant recipients that BFAWP is not a tool with which to create plans that sit on a shelf. This is a resource that helps towns and cities marshal local resources to create a path forward in partnership with the private and nonprofit sectors.

Making BFAWP a permanent part of the EPA Brownfield Program is important because the demand for the continued success of the current BFAWP resources is far from being met. If not made a permanent part of the EPA Brownfield program the compelling outcomes of this program will likely be limited as federal administrations change and discretionary resources reallocated. If there is a benefit to rotating administrations, different approaches, and priorities it is that we can keep the best ideas and practices offered by each rotation and leave the rest behind. The BFAWP program may very well represent the best of what has been introduced to the EPA Brownfield Program in this current administration. We should hang on to it. Further, BFAWP demonstrates that the federal government can evolve and shape its resources in response to what works best at the local level, speak to issues critical to all parties along the political spectrum, and realize environmental, economic, and social gains together.

If you or your colleagues have any additional questions or if there is a way in which I can assist you regarding reauthorization for the EPA Brownfield Program, making the BFAWP program permanent, or any other matter please just let me know. Again, it was an honor to address you last month and I thank you for your service and leadership.

Sincerely,

Clark Henry

[REDACTED]

FRED UPTON, MICHIGAN  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS  
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May 13, 2016

Ms. Amy Romig  
 Partner  
 Plews Shadley Racher & Braun  
 1346 North Delaware Street  
 Indianapolis, IN 46202

Dear Ms. Romig:

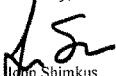
Thank you for appearing before the Subcommittee on Environment and the Economy on Thursday, April 21, 2016, to testify at the hearing entitled "EPA's Brownfields Program: Empowering Cleanup and Encouraging Economic Redevelopment."

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Sincerely,



John Shimkus  
Chairman  
Subcommittee on Environment and the Economy

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment and the Economy

Attachment



**Amy E. Romig**  
**Partner, PLEWS SHADLEY RACHER & BRAUN LLP,**  
**Indianapolis and South Bend, Indiana**

**Before the House of Representatives Committee on Energy and Commerce,  
 Subcommittee on Environment and the Economy**

**Answer to Additional Questions Following Hearing on “EPA’s Brownfields  
 Program: Empowering Cleanup and Encouraging Economic  
 Redevelopment.”**

**RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD**

**The Honorable John Shimkus**

1. Your written testimony identifies several instances where you have helped your clients, who are private shareholders, successfully leverage state or federal brownfields funds to successfully redevelop contaminated properties. How can we incentivize other private investors to sustainably redevelop properties like what you and your clients have been able to get done in Indiana?

Private investors will sustainably redevelop properties when they believe they may be able to do so in a financially positive manner. In order to assess whether they can make a possible profit on the development, they must be able to assess the potential costs that are associated with environmental conditions at the site in a timely manner. Investors will be incentivized if there is adequate information about a site to allow them to calculate the potential costs of remediation and development. To the extent that cities and towns can develop this information using Brownfields funds, they will stimulate further successful redevelopment by filling in information gaps that developers can use to assess the likelihood of successful and profitable redevelopment.

2. What are some of the challenges you and your clients face in trying to get sites redeveloped under either the federal or a state brownfields program?

One of the largest challenges my clients face in getting sites redeveloped is the delay that is associated with developing brownfields sites. It takes time to work



with the state and local environmental programs to determine (1) what are the contaminants of concern located on the site and to what extent is the property contaminated; (2) what uses are appropriate for the property;<sup>1</sup> and (3) what special conditions may be imposed upon a property that is not remediated entirely and what long-term costs may these conditions impose upon the developer or ultimate owner.<sup>2</sup>

**A. Is there a feeling among private stakeholders that the brownfields program – because of time and money concerns – is not worth it and it would be easier to just buy clean property or greenfields? And if so, what can we do to address that problem?**

As discussed above, it takes time to work with state and local environmental agencies to determine what measures must be taken in development as well as what long-term controls may be necessary for Brownfields redevelopment. Furthermore, there is some risk in developing a contaminated property that as you begin construction you'll find that conditions are worse than estimated and additional remediation or construction measures may be required which leads to unanticipated costs. Often developers could invest their money in clean properties and realize a return on the investment much sooner. Furthermore, developers of clean properties do not run the risk of unanticipated environmental costs during development. This leads some private stakeholders to determine that it is not worth it to develop brownfields. However, Brownfields properties are often in profitable locations that may overcome the risks related to both increased time and potential costs. To the extent that the time and potential costs can be reduced through Brownfield funding (providing expertise to the state and local environmental agencies to facilitate and speed up environmental reviews as well as providing money to do environmental studies to reduce the risk of unknown conditions) developers will be incentivized to choose Brownfields redevelopment over developing greenfields.

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<sup>1</sup> Very often the cost of remediating a property to levels that would make a property appropriate for residential development may be prohibitive, but such properties may be appropriate for other commercial uses.

<sup>2</sup> For example, special precautions may be necessary for excavation of contaminated soil during construction or the ultimate owner may be responsible for maintaining institutional controls – such as a parking lot that acts as a cap over the site.



**3. How does the brownfields program fill in knowledge or information gaps for private developers and how does this help move cleanup and redevelopment efforts forward?**

Developers do not like to take on unlimited or unquantifiable risk. The more information a developer has about a property (what are the contaminants of concern, where are the contaminants located on the property; what special measures will be required during and after construction) the more likely a developer will be to develop that property. The Brownfields program provides funding to local governments so that they can pay for the environmental assessments that are critical to develop this information about properties within their jurisdiction. A property about which this information is known is much more likely to be developed than a property about which none of this information exists.



The Honorable Tim Murphy

1. **Ms. Romig, you practice law in Indiana where there is a great deal of coal-fired generation and undoubtedly plants may have to be closed as a result of this Administration's regulations. Do you see a need in the future for cleanup and redevelopment of these sites?**

The biggest issue that Indiana may face because of the policies and regulations affecting coal-fired generation isn't necessarily the shut-down of those coal-fired plants, but the closure of all of the other manufacturing processes that are dependent upon affordable electricity provided by those plants. Indiana is an energy-intensive manufacturing state. Many of the manufacturing businesses in Indiana are already facing intense economic pressures due to global competition. To the extent that energy prices are increased by even a small fraction as a result of the reduction in affordable coal-fired electrical generation, these plants will likely be shut down and their production (and employment opportunities) will be moved out of the country. This will lead to an increased number of Brownfield sites in Indiana cities and towns. These cities and towns will need assistance through the Brownfields funding programs to deal with these newly closed sites.

2. **Your written testimony notes that we may need to look at changes to the Brownfields Program that will reduce transactional costs in terms of time and money. Can you explain why that is necessary and give us some examples of what those changes might look like?**

As I discussed above in answer to Chairman Shimkus' third question, it takes time to work with state and local environmental agencies to determine what measures must be taken in development as well as what long-term controls may be necessary for Brownfields redevelopment. The Brownfields program currently provides funding to local governments so that they can pay for the environmental assessments that are critical to develop this information about properties within their jurisdiction. To the extent that additional money can be provided to these cities and towns they will be able to develop more information about their Brownfields inventory. Furthermore, currently the Brownfields program provides money to do the assessments, but does not provide money to educate the officials within cities and towns about how to more effectively run their Brownfields program. Changes to the Brownfields Program that would allow including administrative costs could help educate the people within the cities and towns to allow them to more effectively run their Brownfields programs and would make it more likely that those cities and towns could effectively redevelop their Brownfields.



Furthermore, state and local environmental agencies face budget pressures that often result in those agencies being understaffed. This can result in long delays in processing and reviewing environmental issues. Any assistance (either in expertise or funding) provided to either state or local environmental agencies would reduce the time (and thus transactional costs) associated with their review of request related to Brownfields sites.

